

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

Case No.	67/2022
Date of Institution	31.08.2020
Date of Order	31.08.2022

In the matter of:

1. Ms. Meenal Gupta, A-401, Shree Villa CHS, CD Barfiwala Marg, Andheri West, Mumbai-400058.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

1. M/s Kanakia Spaces Realty Pvt. Ltd., 215-Atrium, 10th Floor, Anthen Kurla Road, J. B. Nagar, Andheri (East), Mumbai-400093.
2. M/s New Monarch Builders & Contractors, B/701-705, Raylon Arcade, Ram Krishna Mandir Road, Kondivita, Andheri (E), Mumbai-400059.

Respondents

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 (he Applicant No. 1.
2. Sh. Bhupender Goyal, Assistant Director (Cost), Sh. Manoranjan, Sh. Rana Rajneesh Ashok and Sh. Lal Bahadur Assistant Commissioners for the Applicant No. 2 i.e. the DGAP.

3. Sh. Vipul Parekh, VP (Accounts & Tax), Sh. Sunil Agarwal, AGM, Sh. Hardik Gandhi, Sh. Ashish S. Modi and Sh. Shrey Jain, Consultants, Sh. Siddhanth Mehta, Sh. Pratik Jain, and Sh. Gurudas Pal, Chartered Accountants, Ms. Bela, Sh. Mayur D., Authorised Representatives, for the Respondent No. 1.
4. Sh. Raman R. Temkar, Chartered Accountant & Sh. Amit A. Musle, Authorised Representatives for the Respondent No. 2.

ORDER

1. The present Report dated 31.08.2020 had been received from the Applicant No. 2 i.e. the Director General of Anti-Profitteering (DGAP) after detailed investigation under Rule 129 (6) of the Central Goods & Service Tax (CGST) Rules, 2017 in pursuance of Authority's Interim Order no. 15/2019 dated 19.11.2019 in the matter of Ms. Meenal Gupta Vs. M/s Kanakia Spaces Realty Pvt. Ltd. & M/s. New Monarch Builders & Contractors, wherein this Authority had referred the matter back to the DGAP under Rule 133(4) of the CGST Rules, 2017 to conduct further investigation in the matter.
2. The brief facts of the case and findings of investigation conducted by the DGAP are as under:-
 - i. An application was filed by Applicant No.1 to the Maharashtra State Screening Committee on Anti-profitteering (MSSCAP) under Rule 128 of the CGST Rules, 2017 alleging profiteering by the Respondent No. 1s, in respect of purchase of Flat No. A-1104 in the Respondent No. 1s' project "Kanakia Sevens", situated at Sag Baug, Marol, Andheri East, Mumbai, Maharashtra - 400059. The above application was referred by the MSSCAP, vide letter F.No. V/GST(Audit-II)PRO-AP/2/2017 dated 21.03.2018 to the Standing Committee on Anti-profitteering in terms of Rule 128 of the Rules.
 - ii. The above reference was examined by the Standing Committee on Anti-profitteering in its meeting held on 13.04.2018. Thereafter, it forwarded the same to the DGAP (erstwhile Directorate General of Safeguards) on 09.05.2018, to conduct a detailed investigation in the matter.
 - iii. The above application was examined by the DGAP and the Investigation Report dated 06.11.2018 under Rule 129(6) of the Rules, was furnished to the

Authority, Vide the above Report dated 06.11.2018, the DGAP informed that project under investigation was being constructed under a joint development agreement between the Respondent No. 1, who was the original developer and the Respondent No. 2 who are the Land-owner. Accordingly, profiteering was computed for both the Respondents and the DGAP concluded that on the basis of the CENVAT/Input Tax Credit (ITC) availability pre and post-GST and the details of the amounts collected by the Respondent No. 1 & 2 from home buyers during the period 01.07.2017 to 31.07.2018, the amount of benefit of ITC that had not been passed on by the Respondent No. 1 to the recipients or in other words, the profiteered amount, worked out to Rs. 3,99,41,729/- which included 12% GST on the base profiteered amount of Rs. 3,56,62,259/-. Further, the amount of benefit of ITC that had not been passed on by the Respondent No. 2 to the recipients or in other words, the profiteered amount, worked out to Rs. 2,74,29,995/- which included 12% GST on the base profiteered amount of Rs. 2,44,91,067/-. The conclusion was based on the documents and information submitted by the above Respondents during the course of original investigation.

iv. The Authority after considering the various submissions made by the Respondent No. 1 & 2, vide its Internal Order No. 15/2019 dated 19.11.2019, referred the matter back to the DGAP under Rule 133(4) of the Rules, and directed to further investigate the matter on the following issues:-

- a) *Whether the proportionate ITC availed by the Respondent No. 1 was liable to be passed on by the Respondent No. 1 to the Respondent No. 2 on account of his share of 254 units in the free sale building which was further required to be passed on to the buyers of the above units?*
- b) *What was the total saleable area of the flats which were to be sold by the Respondent No. 2?*
- c) *What was the area sold by the Respondent No. 2 relevant to the taxable turnover during the pre and post-GST periods in respect of his share in the free sale building?*

- d) *Whether Respondent No. 2 had availed any benefit of ITC on the Rehabilitation building constructed by him and whether he was liable to pass on the benefit of such additional Input Tax Credit or not?*

Consequently, the Authority directed the DGAP to cause further investigation in the present case till 30.11.2019 and submit his Report accordingly.

- v. After receiving reference from the Authority, letters were issued to the Respondent No. 1 and 2 on 26.11.2019, calling upon them to submit the information/ documents required to further investigate the matter.
- vi. The revised period covered by the current investigation was from 01.07.2017 to 30.11.2019 as per direction of Authority contained in para- 79 of above I.O. No. 15/2019 dated 19.11.2019.
- vii. The time limit to complete the investigation was extended up to 31.08.2020 by the Authority by virtue of Notification No. 35/2020-Central Tax dated 03.04.2020 and Notification No. 55/2020-Central Tax dated 27.08.2020 issued by Central Government under Section 168A of the CGST Act, 2017.
- viii. In response to the DGAP letter dated 26.11.2019 and subsequent reminders, the Respondent No. 1 submitted his replies vide letters/e-mails dated 09.12.2019, 06.01.2020, 19.05.2020, 10.06.2020, 30.06.2020, 19.08.2020 and 25.08.2020. The replies of the Respondent No. 1 has been summed up as follows:-
- (a) He had a common RERA Registration No. P51800000388 for the Project "Karakia Sevens" which consist of 7 Wings and Shops. Further, he had received Occupation Certificate (OC) on 24.12.2018 in respect of Wing A, B, C and D whereas OC in respect of Wings E, F & G and Shops was yet to be received. The Respondent No. 1 further stated that he had opted to pay taxes under new GST rate scheme i.e. 5% GST without ITC with effect from 01.04.2019 in terms of Notification No. 03/2019- Central Tax (Rate) and accordingly he had not availed any ITC from 01.04.2019 onwards.

- (b) He had charged 5% GST with respect to all the demand letters issued on or after 01.04.2019.
- (c) He had already passed on the benefit accruing to him pursuant to introduction of GST Regime by way of commensurate reduction in prices to his customers as on 31.10.2019 as furnished in Table-'A' below:-

Table-'A'

S. No.	Category of Customer	Benefit passed (In Rs.)
1	Customers to whom units were sold as on 30.06.2017	2,10,08,678
2	Customers to whom units were sold during the period 01.07.2017 to 31.10.2019	3,75,49,568
3	Benefit attributable to unsold units as on 31.10.2019	19,82,570
4	GST benefit passed on to the Respondent No. 2	1,82,73,559
	Total Benefit to be passed on by the Respondent No. 1	7,88,14,375

Note-1: In respect of customers to whom units have been sold under the GST regime (category #2 above), the benefit of input tax credit attributable to such units have already passed on at the time of execution of sale agreement.

Note-2: Entire set of copies of credits notes issued to customers in category #1 and #4 above was submitted before the Authority during the hearings.

- (d) The total saleable area of the Project "Kanakia Sevens" as on 31.03.2019 was 5,85,562 sq. ft. out of which his share was 3,13,825 sq. ft. and remaining area of 2,71,737 sq. ft. pertains to the Respondent No. 2.
- ix. The DGAP further stated that vide the aforementioned letters and e-mails, the Respondent No. 1 had submitted the following documents/information:-
- Copies of GSTR-1 returns for the period July, 2017 to Nov, 2019,
 - Copies of GSTR-3B returns for the period July, 2017 to Nov, 2019,
 - Electronic Credit Ledger for the period July, 2017 to Nov, 2019,
 - Copy of RERA Registration and Project Report submitted to RERA.

- e. Occupancy Certificate for the Wings A, B, C & D issued by Slum Rehabilitation Authority vide Memo No. SRVENG/1998/KE/ML/ AP dated 24.12.2018.
- f. Status of the project as on 30.11.2019 in terms of tower-wise sold and unsold units along with copy of Occupancy Certificate received on 24.12.2018.
- g. List of home buyers for the project "Kanakia Sevens" along with customer wise details of benefit passed on.
- h. Input Tax Credit register for the period 01.07.2017 to 31.03.2019 along with detailed working of ITC reversal and nature thereof.
- i. Details of turnover, output tax liability, GST payable and ITC Availied for the project "Kanakia Sevens" y
- j. Copies of Credit Notes issued to all the Home Buyers by which benefit of ITC had been passed on.
- k. Copies of price sheets of the units sold post-GST where benefit of ITC had been passed on by reducing the agreement value.
- l. Copies of Credit Notes of GST Benefit passed on to the Landowner i.e. Respondent No. 2.
- m. Copy of Credit Note of benefit of ITC passed on to the Applicant No. 1 along with copy of withdrawal of complaint submitted by the Applicant No. 1 to the DGAP.
- x. In response to letter dated 26.11.2019 and subsequent reminders, the Respondent No. 2 had submitted his replies vide letters/e-mails dated 09.12.2019, 26.12.2019, 05.01.2020, 22.05.2020, 10.06.2020, 30.06.2020, 05.08.2020, 06.08.2020 and 20.08.2020. The replies of the Respondent No. 2 has been summed up as follows:-
- (a) Pursuant to the issuance of Notification No. 03/2019 – Central Tax (Rate), in respect of the project "Kanakia Sevens" he had opted to pay taxes under new scheme on or after 01.04.2019 which was deemed to have been exercised by not availing option to submit the prescribed Form. Further, he had charged 5% GST with respect to all the demand

letters issued on or after 01.04.2019.

- (b) Further, with regard to the Rehabilitation Building, the Respondent No. 2 submitted that he did not sell the units under the SRA scheme and also not availed any credit with respect to construction of these units. He handed over the unit to the Slum Dwellers. There was total 1157 eligible slum dwellers in the scheme out of which 984 had been given permanent allotment in the constructed rehab buildings as per details furnished in Table-'B' below:-

Table-'B'

S. No	Rehab Bldg No.	Construction of structure	No. of Units allotted to Slum dwellers	Occupation Certificate issued by SRA on	Remarks on Handover
1	1A	G+7 upper floors	45	20.3.2003	Handed over to Slum Dwellers
2	1B	G+7 upper floors	89	17.2.2004	Handed over to Slum Dwellers
3	4 A & B	G+7 upper floors	138	16.6.2008	Handed over to Slum Dwellers
4	5 A & B	G+7 upper floors	114	28.8.2007	Handed over to Slum Dwellers
5	6	G+7 upper floors	93	30.6.2008	Handed over to Slum Dwellers
6	2	G+7 upper floors	100	OC not issued	In process
7	7	G+18 upper floors	425	5.9.2018	Handed over to Slum Dwellers
Total			984		

- xi. The DGAP has also informed that vide the aforementioned letters and e-mails, the Respondent No. 2 submitted the following documents/information:-
- Copies of GSTR-1 returns for the period July, 2017 to Nov, 2019.
 - Copies of GSTR-3B returns for the period July, 2017 to Nov, 2019.
 - Electronic Credit Ledger for the period July, 2017 to Nov, 2019.
 - Copy of RERA Registration and Project Report submitted to RERA.

- e. Occupancy Certificate for the Wings A, B, C & D issued by Slum Rehabilitation Authority vide Memo No. SRA/ENG/199B/KE/ML/ AP dated 24.12.2018.
 - f. Copies of all demand letters, receipts, & Credit Notes issued in the name of the Applicant No. 1.
 - g. List of home buyers for the project "Kanakia Sevens".
 - h. CENVAT/Input Tax Credit register for the period 01.04.2016 to 31.03.2019 reconciled with ST-3/GSTR-3B returns along with detailed working of ITC reversal.
 - i. Details of VAT, Service Tax and GST turnover, output tax liability, GST payable and CENVAT, ITC Availed for the project carried out by Respondent No. 2 being "Kanakia Sevens"
 - j. Copies of Credit Notes of ITC Benefit amounting to Rs. 1,82,73,560/- passed on by the Developer i.e. Respondent No. 1.
- xii. The DGAP has mentioned that the Internal Order received from the Authority, the various replies of the Respondent No. 1 & 2 and the documents/evidences on record had been carefully examined in respect of the project "Kanakia Sevens".
- xiii. The DGAP has found that the Respondent No. 1 & 2 had total 7 Wings and Shops in the impugned project out of which 4 wings were completed and received 'OC' on 24.12.2018. Further, the Respondent No. 1 & 2 had obtained a single RERA registration vide Registration No. P51800000388 dated 15.07.2017 for all the wings. The Respondent No. 1 & 2 also did not maintain separate books of accounts for any wings for booking of specific purchase & expenses. Therefore, profiteering, if any, had to be computed by taking into account the total ITC availed by the Respondent No. 1 & 2 and total turnover of complete project.
- xiv. Para 5 of Schedule-III of the CGST 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 CGST 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 their 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 Respondents, 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 CGST Act, 2017, which read as under:-

Section 17 (2) "When the goods or services or both was 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 exempted 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 exempted 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 Respondents 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, the Respondent No. 1 & 2 had opted for composition scheme w.e.f. 01.04.2019, and therefore, they were not eligible to avail any ITC post 01.04.2019. Further, the Respondent No. 1 & 2 charged 5% GST (without benefit of ITC) for the units to be sold to the prospective buyers and also on all the demand letters issued on or after 01.04.2019. Therefore, complete ITC availed by the Respondents during 01.07.2017 to 31.03.2019 post reversal on account of unsold units pertained to the sold units upto 31.03.2019 only.

- xv. The DGAP has further referred to clause 7(f) of Sub-development Agreement dated 20.09.2011 in which M/s. Kanakia was a Sub-Developer and M/s. New Monarch was the Scheme Owner or the Developer which reads as:-

"(f) It was hereby agreed between the parties hereto that for the sale of the flats, shops, offices and units comprised in their respective allocations, and to avoid competition amongst parties hereto, sales shall be effected from single window, to be monitored by representatives of both the parties. Simultaneously with the earmarking of the allocations of the parties hereto, the parties shall mutually decide the minimum sale price below which either party shall not be entitled to sell and the parties hereto shall however ensure that there was no unhealthy practice or competition between parties hereto which in any manner prejudice the project" [Emphasis added]

Further, as per clause 'E' of Supplemental Agreement dated 23.10.2013, the Sub-Development Agreement provided that

"the Agreement for sale of Flats in the said Development shall be Tripartite and in the Agreement for Sale of the Developer's Allocation, the Developer shall be shown as the Sellers/Promoters and the Sub-Developer shall be shown as the Developer. Further, in the agreement for sale for the sale of the Sub-Developer's Allocation, the Sub-Developer shall be shown as the Promoter/Seller and the Developer shall be shown as the Confirming Party."

Therefore, profiteering, if any, had to be computed considering the whole project as a whole irrespective of allocation of Developer or Sub-Developer in order to remove any discrimination among the buyers only because of their purchase of the unit from one party rather than other party.

Further, the sale prices were mutually decided by and the agreement also signed by both the Respondents jointly.

- xvi. On the basis of revised information and documents submitted by the Respondent No. 1 and 2, the DGAP has observed that prior to 01.07.2017, i.e., before the GST was introduced, the Respondents were eligible to avail CENVAT credit of Service Tax paid on Services but no credit was available in respect of Central Excise duty and VAT paid on the inputs. However, post-GST, the Respondents could avail ITC of GST paid on all the inputs and the

input services including the sub-contracts. From the information submitted by the Respondents for the period April, 2016 to November, 2019, the details of the ITC availed by them, their turnover from the project "Kanakia Sevens" 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, has been furnished in Table-'C' below:-

Table-'C'

(Amount in Rs.)

S. No.	Particulars	April, 2016 to June, 2017 (Pre-GST)	July, 2017 to March, 2019 (Post-GST)
1	CENVAT of Service Tax Paid on Input Services reconciled as per ST-3 (A)	2,75,18,563	-
2	Input Tax Credit of VAT Paid on Purchase of Inputs (B)	-	-
3	Input Tax Credit of GST Availed (C)	-	12,40,62,807
4	Net CENVAT/Input Tax Credit Available (D)= (A+B) or (C)	2,75,18,563	12,40,62,807
5	Total Turnover as per List of Home Buyers (Not of Cancellation) excluding units sold Post-OC (E)	7,40,47,90,69	1,92,02,96,706
6	Total Saleable Area (in SQF) (F)	5,85,562	5,85,562
7	Total Sold Area relevant to Turnover (Not of Cancellation) (G)	2,28,778	3,45,678
8	Relevant CENVAT/ITC [(H)= (D)*(G)/(F)]	1,07,51,452	7,32,38,672
9	Ratio of CENVAT/Input Tax Credit to Turnover [(I)= (H)/(E)]	1.45%	3.81%

* *Note: Since both the Respondent No. 1 & 2 had availed the CENVAT/Input Tax Credit for the whole project, the CENVAT/ITC availed and Turnover in Respondent No. 1 & 2's books considered in above table as both the Respondents were required to pass on the benefit to the recipients.*

- xvii. As w.e.f. 01.04.2019, the Respondent No. 1 & 2 opted for new scheme of 5% without ITC, the demand to be raised on or after 01.04.2019 would bear incidence of reduced rate of GST of 5% (as compared to demand raised in

normal scheme of 12% GST), therefore, they were not entitled for any benefit of ITC on or after 01.04.2019.

- xvii. The DGAP has deduced from the above Table- 'C' that the ITC as a percentage of the turnover that was available to the Respondent No. 1 & 2 during the pre-GST period (April, 2016 to June, 2017) was 1.45% whereas during the post- GST period (July, 2017 to March, 2019), the percentage was 3.81% which clearly confirmed that post-GST, the Respondents had benefited from additional ITC to the tune of 2.36% [3.81% (-) 1.45%] 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 Service Tax @4.5% and VAT@1% were payable (total tax @ 5.5%) with the post-GST period (July, 2017 to November, 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. Accordingly, on the basis the figures contained in Table-'C' 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) during the post-GST period, has been tabulated in Table- 'D' below:-

Table-'D'

(Amount in Rs.)

S. No.	Particulars		Post- GST		
1	Period	A	01.07.2017 to 31.03.2019		
2	Output GST Rate (%)	B	12.00		
3	Ratio of CENVAT credit/ Input Tax Credit to Total Turnover as per table - 'C' above (%)	C	3.81		
4	Increase in input tax credit availed post-GST (%)	D= 3.81% less 1.45%	2.36		
5	<u>Analysis of Increase in input tax credit.</u>		Respondent No. 1	Respondent No. 2	Total
6	Total Base Price raised/collected during July, 2017 to March, 2019 (Rs.)	E	1,51,84,20,430	49,38,78,278	1,92,02,98,708

7	GST @ 12% over Base Price	$F=E*12\%$	18,18,70,451	4,61,65,153	23,04,35,604
8	Total amount collected/raised by Respondent No. 1 and Respondent No. 2	$G=E+F$	1,69,83,90,881	45,23,41,431	2,15,07,32,312
9	Recalibrated Base Price	$H=(E)*(1-D)$ or 97.54% of (E)	1,48,06,32,908	39,43,44,798	1,67,49,77,706
10	GST @ 12%	$I=H*12\%$	17,76,75,949	473,21,376	22,49,97,325
11	Commensurate demand price	$J=H+I$	1,65,83,08,857	44,16,66,174	2,09,99,75,031
12	Excess Collection of Demand or Profiteering Amount	$K=G-J$	4,00,82,024	1,06,75,257	5,07,57,281

- xix. The DGAP has claimed from Table-'D' above that the additional ITC of 2.36% of the turnover should have resulted in the commensurate reduction in the base price as well as cum-tax price. Therefore, in terms of Section 171 of the CGST Act, 2017, the benefit of such additional ITC was required to be passed on by the Respondent No. 1 & 2 to the respective recipients.
- xx. The DGAP has concluded from the above calculation that on the basis of the aforesaid CENVAT

31.08.2020. This amount did not include profiteering amount pertaining to the Applicant No. 1 as she had not paid any amount during the period July, 2017 to March, 2019.

- xxi. On the basis of the details of outward supplies of the construction service submitted by the Respondent No. 1 and 2, the DGAP has observed that the above service had been supplied in the State of Maharashtra only.
- xxii. The DGAP has further observed that the Respondent No. 1 & 2 had booked total of 496 units in the whole project as on 30.11.2019, however 27 customers had since then cancelled their bookings, and 63 units were sold after receipt of OC on which GST was not applicable. Further 29 units were sold post 01.04.2019 on which he had opted for composition scheme. Further, demands were raised from 328 home buyers and no demands were raised from other 49 [496-(27+63+29+328)] home buyers, during the post-GST period from 01.07.2017 to 31.03.2019. Therefore, if the ITC in respect of these 49 units was considered to calculate profiteering in respect of 328 units where demands had been raised after GST, the ITC as a percentage of turnover might be erroneous. Furthermore, demand to be raised/received on or after 01.04.2019 would bear incidence of only 5% GST as compared to 12% GST (to be charged in normal scheme). Therefore, the benefit of reduction in rate of tax of 7% [12% (-) 5%] without ITC would be available in respect of these units and therefore, no further benefit of ITC was required to be passed on the demand to be raised on or after 01.04.2019 as the additional benefit of ITC available to the Respondent No. 1 & 2 was 2.36% which was lower than 7% reduction in rate of tax of GST.
- xxiii. The DGAP has also mentioned that Respondent No. 1 had submitted that he had passed on the benefit of Rs. 7,88,14,375/- as mentioned in Table 'A' in para supra. However, the Respondent No. 1 had erroneously claimed benefit of Rs. 1,43,04,171/- passed on to the buyers of units booked post 01.04.2019 and Rs. 19,82,570/- attributable to unsold units as on 31.10.2019. Further, the Respondent No. 1 had submitted copies of Credit Notes, tax invoices for all the home buyers vide which he had passed on the benefit of ITC amounting to Rs.

2,10,08,678/- and Booking Application Forms along with Price Sheets forming part of agreement for units sold post-GST wherein he had passed on the benefit of Rs. 2,32,45,397/- and Credit Notes amounting Rs. 1,82,73,560/- to the Respondent No. 2, the same were duly verified by the DGAP and found to be correct. A summary of category-wise ITC benefit required to be passed on and the benefit passed on, has been furnished in Table-'E' below:-

Table-'E'

(Amount in Rs.)

S. No.	Category of Customers	No. of Units	Area (in Sq.ft.)	Amount Raised/ Received (July, 17 to March, 2019)	Benefit to be passed on as per Annexure-23 & 24	Benefit Passed on by the Respondent No. 1	(Excess/ Shortage of Benefit (profiteering))	Remark	
A	B	C	D	E	F	G	H=F-G	I	
1	Buyers other than Applicant/Builder (Developer)	148	1,54,207	82,62,70,298	2,18,90,840	2,10,08,678	8,82,122	Further benefit to be passed on as per Annexure-25	
2		105	1,10,993	68,61,50,132	1,81,80,184	2,20,25,798	(38,65,614)	Excess Benefit passed on List Attached as Annexure-26	
3		0	5,312	-	-	-	11,37,459	(11,37,459)	No Consideration received post GST. However, Respondent No. 1 passed on the benefit as per list attached as Annexure-26
4		29	25,993	-	-	-	-	-	Unit Sold Post 01.04.2019
5		26	30,304	-	-	-	-	-	Unit Sold Post receipt of CC
6		20	20,229	-	-	-	-	-	Unsold Units
Total (Respondent No. 1)		311*	3,46,938*	1,51,64,20,430	4,00,82,024	4,42,54,075			
7	Applicant No. 1	1	1,350	-	-	-	-	No Consideration received post GST	
8	Buyers other than Applicant/Builder (Land owner)	72	80,478	40,38,76,278	1,06,75,257	-	1,06,75,257	Further benefit to be passed on as per Annexure-27	
9		43	45,100	-	-	-	-	No Consideration received post GST	
10		4	4,198	-	-	-	-	Unit Sold Post 01.04.2019	
11		38	32,028	-	-	-	-	Unit Sold Post receipt of CC	
12		108	1,07,853	-	-	-	-	Unsold Units	
Total (Respondent No. 2)		266	2,71,737	40,38,76,278	1,06,75,257	-	1,06,75,257		
Grand Total		597	6,18,675	1,92,02,96,708	5,07,57,281	4,42,54,075			

*Note: Respondent No. 1 submitted that he had started construction of

additional area of 33,113 sq. ft. consisting 31 units on 19th floor of all wings in June, 2019 which was after opting new scheme of paying taxes @5% without ITC w.e.f. 01.04.2019. Therefore, he had not availed any ITC w.r.t. these units and accordingly these were outside the scope of present investigation.

- xxiv. The DGAP deduced from the above Table 'E' that the benefit passed on by the Respondent No. 1 to the recipients was less than what he ought to have passed on in case of 148 home buyers (Sr. 1 of above table) by an amount of Rs. 8,32,022/- . The details of these amounts has been given in Annexure-25. Further, the benefit passed on by the Respondent No. 1 was higher than what he should have passed on in respect of 108 home buyers (Sr. 2 of above table) by an amount of Rs. 38,66,614/-. The details of this excess benefit passed by the Respondent No. 1, has been given in Annexure-26. However, this excess benefit passed on to some recipients, could not be set off against the additional benefit required to be passed on to the other recipients as per Annexure-25 of the Report dated 31.08.2020 and it could only be adjusted against any future benefit that might accrue to such recipients.
- xxv. Similarly, the Respondent No. 2 was required to pass on the benefit of Rs. 1,06,75,257/- in case of 72 home buyers (Sr. 8 of above table). The details of these amounts have been given in Annexure-27 of the Report dated 31.08.2020. Further, vide submission dated 30.06.2020, the Respondent No. 2 submitted that he was in process of determining the amount of benefit to be passed on to the customers and had not passed on the benefit yet. however, vide letter dated 19.08.2020, the Respondent No. 2 had claimed to have passed on an amount of Rs. 51,04,736/- to 37 home buyers but the Respondent No. 2 did not submit any documentary evidence to substantiate the same.
- xxvi. On the basis of Respondent No. 1 & 2's submissions and above discussion, the point wise submissions to issues raised by the Authority vide I.O. 15/2019 dated 19.11.2019 in para above has been given as under:-

- (a) The Respondent No. 1 had passed on benefit of Rs. 1,82,73,560/- to the Respondent No. 2 with regard to units pertaining to him via four credit notes which the Respondent No. 2 vide letter dated 19.08.2020 had acknowledged to have received and accounted in their books. The details of these credit Notes has been furnished in Table-'F' below:-

Table-'F'

Credit Note Number	Date of receipt	Particulars	Amount (In Rs.)
CR/NM/18-19/001 dt. 28.02.19	28.02.2019	GST Input credit benefit passed on @ 2.5% till July 18	1,09,45,313
CR/NM/18-19/002 dt. 28.02.19	28.02.2019	GST Input credit benefit passed on @ 2.5% Aug 18 to Dec 18	9,25,191
CR/NM/18-19/003 dt. 31.03.19	11.04.2019	GST Input credit benefit passed on @ 2.5% Jan 19 to Mar 19	15,73,411
CR/NM/18-19/004 dt. 31.03.19	20.04.2019	GST Input credit benefit passed on @ 2.5%	48,29,645
Total			1,82,73,560

discussed in para above, the Respondent No. 2 was required to pass on the benefit of Rs. 1,06,75,257/- to the recipients from his share. Out of this, proportionate amount of Rs. 75,78,268/- (Rs. 1,06,75,257/- (profiteering amount) * [Rs. 8,80,71,057/- (ITC availed by Respondent No. 1) + Rs. 12,40,62,807/- (Total ITC availed by Respondent No. 1 & 2)] was required to be passed on by the Respondent No. 1 to the Respondent No. 2. As, the Respondent No. 1 had already passed on an amount of Rs. 1,82,73,560/-. Therefore, there was no further benefit to be passed on by the Respondent No. 1 to the Respondent No. 2.

- (b) The total saleable area of the flats & shops which were to be sold by the Respondent No. 2 was 2,71,737 sq. ft.

(c) The area sold by the Respondent No. 2 relevant to the taxable turnover during the pre- GST period (01.04.2016 to 30.06.2017) and post-GST period (01.07.2017 to 31.03.2019) in respect of his share in the free sale building was 62,073 sq. ft. and 80,478 sq. ft. respectively.

(d) The Respondent No. 2 had not availed any benefit of ITC on the Rehabilitation building constructed by them and further they had not collected any consideration for the units handed over to Slum Dwellers, therefore they were not liable to pass on the benefit of such additional ITC.

3. Consequently, the DGAP has concluded that the benefit of additional ITC to the tune of 2.36% of the turnover, accrued to the Respondent No. 1 & 2 post-GST and the same was required to be passed on by them to the respective recipients. On this account, the Respondent No. 1 was required to pass on the additional benefit of ITC amounting to Rs. 8,32,022/- as mentioned at Sr. No. 1 of Table- 'E' and in para supra to 148 other recipients who were not Applicants in the present proceedings. These recipients were identifiable as per the documents provided by the Respondent No. 1, giving the names and addresses along with Unit No. allotted to such recipients. Therefore, this additional amount of Rs. 8,32,022/- was required to be returned to such eligible recipients. Further, the Respondent No. 2 was required to pass on the benefit of ITC amounting to Rs. 1,06,75,257/- as mentioned at Sr. No. 8 of Table- 'E' and in para supra, in respect of 72 other recipients who were not Applicants in the present proceedings. These recipients were identifiable as per the documents provided by the Respondent No. 2, giving the names and addresses along with Unit No. allotted to such recipients. Therefore, this amount of Rs. 1,06,75,257/- was required to be returned to such eligible recipients. The investigation revealed that the Applicant No. 1 had not paid any amount during the period under investigation and therefore, the above profiteering amounts did not include any amount pertaining to the above Applicant. The DGAP has observed that the above Respondents had supplied construction services in the State of Maharashtra only. The DGAP has also stated

that 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 the no benefit of ITC for construction service would be available to the Respondent No. 1 & 2 in future as they had opted for composition scheme as provided by Notification No. 03/2019- Central Tax (Rate) dated 29.03.2019.

4. The above Report was considered by this Authority in its meeting and it was decided that the Applicants and the Respondent be asked to file their submissions before this Authority by 18.09.2020. A Notice dated 03.09.2020 was also issued to the above Respondents asking them to explain why the Report dated 31.08.2020 furnished by the DGAP should not be accepted and his liability for violating the provisions of Section 171 of the above Act should not be fixed. Thereafter, hearing via videoconferencing was held on 23.02.2021 wherein Sh. Sunil Agarwal, GM (Finance), Sh. Vipul Parekh and Sh. Ashish S. Modi, Authorised Representatives appeared for the Respondent No. 1 and Sh. Amit A. Musie, Authorised Representatives appeared for the Respondent No. 2. However, before the Order could be passed, one of the Technical Members of the Authority who had heard the matter was transferred out and thereafter the Chairman of the Authority had also left the Authority. Since, the quorum of the Authority of minimum three Members, as provided under Rule 134 was not available till 23.02.2022, the matter could not be decided. With the joining of two new Technical Members in February 2022, the quorum of the Authority was restored from 23.02.2022 and the personal hearing in the matter was accorded to the Respondents and Applicant No. 1 on 25.03.2022 via video-conferencing. Sh. Sunil Agarwal, GM (Finance), Sh. Vipul Parekh, Sh. Ashish S. Modi and Sh. Shrey Jain, Consultant, Authorised Representatives for the Respondent No. 1, appeared on behalf of the Respondent No. 1 and Sh. Amit A. Musie and Sh. Raman Temkar, Authorized Representatives appeared on behalf of the Respondent No. 2. Ms. Meenal Gupta, the Applicant No. 1 did not appear. Sh. Lal Banadur, Assistant Commissioner appeared on behalf of the DGAP. During the course of proceedings, the Respondent No. 1 & 2 have relied upon their submissions dated 13.11.2020,

23.01.2021 and 25.01.2021 wherein they have inter-alia stated as under:-

(i) No guidelines prescribed to determine commensurate reduction:-

- (a) Section 171 of the CSGT Act did not prescribe any guidelines/procedure to determine the benefit to be passed on. Section 171 of the Act merely imposed a duty on the supplier to pass-on the benefit of reduction in price or benefit of ITC to the recipients of goods or services, by way of commensurate reduction in prices. He has noted that there were no guidelines/procedures contained in the statute for determination of 'benefit' and 'commensurate reduction'.
- (b) Rule 126 of the CGST Rules, 2017 empowered the Authority to determine the methodology and procedure for computing the extent of profiteering. However, no precise computation methodology or principles have been formulated by the Authority. In this regard, it was submitted that the methodology to determine whether the taxpayer has passed on the benefit of reduced rate of GST or enhanced input tax credits was one of the essential ingredients of Section 171 of the CGST Act. Consequently, the absence of the aforesaid methodology would lead to a scenario wherein the entire investigation conducted by the DGAP would become a futile exercise.
- (c) The Authority, vide Methodology and Procedure, 2018 had notified the manner in which the anti-profiteering proceedings should be conducted. He however has stated that the provisions notified by the Authority were merely procedural and did not lay down principles for computing the extent or manner of profiteering. The Respondents have submitted that such methodology for determining the extent and manner of profiteering was the essential ingredient of any anti-profiteering investigation and thus, the investigations conducted under Section 171 of the CGST Act, 2017 must be in accordance with the methodology as prescribed by the Authority.
- (d) The Respondents have submitted that the concept of anti-profiteering had been introduced in various countries such as Australia, Malaysia, etc. The anti-profiteering provisions enacted in Australia and Malaysia were

supported by the detailed set of rules for determining the manner in which the 'unreasonably high profits' or 'price exploitation' would be computed. In light of the legislations enacted in other countries upon introduction of GST, it became essential for the Authority to expressly set out detailed regulations for providing the methodology for commuting the extent of profiteering.

(e) The Respondents have also submitted that the legislature has not provided any mechanism for implementation of Section 171 and thus no meaningful investigation could be conducted under Section 171 for following reasons which were without prejudice to each other:-

(i) The discussion papers with respect to Section 171 showed that this provision was introduced with a view to "discourage profiteering" measure as a result of reduction in rate or extra availability of input tax credit. Therefore, for invoking the provisions of Section 171, the following essentials were as below:-

- o There must be profiteering by the registered person; and
- o Profiteering must be caused by either reduction in rate or availability of input tax credit and not on account of other any factors or circumstances.

(ii) Mere presence of profit, which was not caused by GST related changes, was not actionable under Section 171.

(iii) More specifically, the law had not provided objective quantification of benefits to be passed on by the taxpayer to the customer. For instance, no input tax credit was admissible with respect to inputs and input services attributable to exempted supplies or non-business activities. Now under CGST Rules, objectively by giving a formula and methodology, the quantum of credit allowed as well as disallowed has been prescribed. Substantive benefits and liabilities could not be left open ended. Therefore, for absence of mechanism, Section 171 could not be implemented.

- (f) The Respondents have submitted that such delegation of power to determine the methodology amounted to excessive delegation of law. This was so because the methodology to determine Anti-Profitteering was a substantive in nature since the said methodology would determine whether there was profiteering or not.
- (g) It was a well-established principle of law that essential legislative functions which comprised of the determination of the legislative policy and its formulation could not be delegated by the legislature. What could be delegated was only the task of regulating the procedural aspects of implementation of the legislative policy necessary for implementing the purpose and objects of a legislation.
- (h) In *Harishankar Bagla v. State of Madhya Pradesh* [(1973) 1 SCR 381, 388], the Hon'ble Supreme Court held that the legislature could not delegate its function of laying down legislative policy in respect of a measure and its formulation as a rule of conduct. The legislature must declare the policy of the law and the legal principles which were to control any given cases, and must provide a standard to guide the officials or the body in power to execute the law. Further, in *Gulabchand Bapalal Modi v. Municipal Corpn. of Ahmedabad City*, (1971) 1 SCC 823, the Court observed that in all statutes dealing with local administration municipal authorities had inevitably to be delegated the power of taxation. Such power was a necessary adjunct to a system of Local Self-Government. Whether such delegation was excessive and amounted to abdication of an essential legislative function had to be considered from the scheme, the objects, and the provisions of the statute in question.
- (i) The Respondents have submitted that in the present case, the Rule conferred unbridled power on the Authority to prescribe a procedure for determining 'commensurate reduction', which was the basis of an Anti-Profitteering investigation. The Respondents have submitted that such delegation suffered from the vice of excessive delegation since it was for the legislature to prescribe the method as to what was commensurate

reduction. The Respondents have submitted that the excessive delegation of power to the Authority to determine the procedure for 'commensurate reduction' was bad in law.

- (j) The Respondents have submitted that Section 171 of CGST Act and Rules 122 to 137 of CGST Rules being part of taxing statute, could not be enforced in the absence of machinery provisions for computation of the profiteered amount as per the settled law in case of *CIT Vs. B.C. Srinivasa Shetty [1981-2-SCC-460]* and *Commissioner of Central Excise Vs. Larsen & Turbo Limited [2016-1-SCC-170]*. Also, the above provisions did not provide mechanism of computation nor any guidelines and had left framing of methodology and computation to the DGAP which was illegal as it was well established principle that legislature could not delegate its authority under a statute without appropriate guidelines and this view has been upheld by Hon'ble High Court of Patna in case of *M/s. Indian Aluminium Co. Limited and Anr. Vs. The State of Bihar and Ors. [1994-1-PJLR]*. Therefore, the Respondents have stated that the provisions of Anti-profiteering placed an unbridled discretion in the hands of the Authority and hence the present proceedings were not maintainable.

(ii) When no methodology prescribed, authority cannot insist on any particular method:-

- (a) The Respondents have submitted that Rule 126 of the CGST Rules provided that the Authority was required to determine the methodology for determining commensurate reduction. However, there was no notification prescribing such procedure/guideline. In absence of such guidelines, the DGAP could not insist on any method.
- (b) The Respondents have further submitted that in the absence of any specific restrictions, the Authority could not compel the Respondents to follow a particular methodology. The Respondents have submitted that the law was replete with examples of a reasonable methodology, when no procedure was specified in law. Given this, the rejection of methodology adopted by the

Respondents has and the mechanism adopted by the DGAP to calculate the profiteering amount was incorrect and bad in law.

(ii) Without prejudice, even if any methodology was prescribed, it would be at best prospective and therefore, would not apply to the present case:-

(a) The Respondents have submitted that even if a notification proscribing guidelines/procedure was issued at a later point of time, the same would be applicable prospectively and not retrospectively. This was so because the determination of a procedure to calculate commensurate reduction was a substantive provision, which could not be applied retrospectively. The principle of prospective application was dealt with by Maxwell on the Interpretation of Statutes, 12th Edn as follows:-

"Perhaps no rule of construction was more firmly established than this - that a retrospective operation was not to be given to a statute so as to impair an existing right or obligation, otherwise than as regards matters of procedure, unless that effect cannot be avoided without doing violence to the language of the enactment. If the enactment was expressed in language which was fairly capable of either interpretation, it ought to be construed as prospective only. The rule has, in fact, two aspects, for it, "involves another and subordinate rule, to the effect that a statute was not to be construed so as to have a greater retrospective operation than its language renders necessary."

(b) In **State of Punjab & Ors. v. Bhujan Kaur & Ors., AIR 2008 SC 2276** the Hon'ble Supreme Court held that a statute was presumed to be prospective unless held to be retrospective, either expressly or by necessary implication. A substantive law was presumed to be prospective. It was one of the facets of the rule of law.

(c) In view of the above, it was apparent that the DGAP had violated the scope of Section 171 of the CGST Act and therefore in the absence of any guidance on the methodology for determining the manner in which the benefit of reduced rate of GST/incremental ITC has to be passed on to the customers, the

approach, extent and manner of computation by the DGAP was liable to be set aside and dropped.

(iv) Scope of Section 171 did not cover the present case:-

- (a) The Respondents have submitted that Section 171 of the CGST Act stated that any reduction in rate of tax on any supply of goods or services or the benefit of ITC should be passed on to the recipient by way of commensurate reduction in prices.
- (b) The Respondents have submitted that the Anti-Profitteering provision under the statute mandated the passing-on of the benefit of reduction in rate of tax on supply of goods or services or the benefit of ITC. The Respondents have noted that there was no stipulation or condition contained in the provision which dealt with the time of the passing-on of such benefit. In other words, there was no condition which mandated the 'immediate' passing-on of such benefit.
- (c) It was a settled principle of law that a provision of a taxing statute was to be strictly interpreted. The Respondents have placed reliance in this regard on the following cases:-
- o Union of India v. Ind-Swift Laboratories Ltd., (2011) 4 SCC 635,
 - o CIT vs. Calcutta Knitweaves (2014) 362 ITR 673 (SC),
 - o V. Fernandez vs. State of Kerala, [AIR 1957 SC 657]
- (d) Applying the above principle, the Respondents have submitted that Section 171, which dealt with Anti-Profitteering, merely provided for passing-on of benefit by the supplier, without mentioning any time period for such passing. In the absence of any condition with respect to passing-on of such benefit, it could not be interpreted that the benefit was to be passed-on 'immediately' by the supplier.

(v) Conditions could not be added in a statute by way of interpretation when no such condition existed from a plain language of the provision:-

- (a) The Respondents have submitted that while arriving at a conclusion in para 22 of the DGAP's Report, the DGAP had added a condition into the provision, so as to mandate the Respondents to pass-on the benefit of ITC immediately. The Respondents have submitted that the DGAP could not add conditions that did not exist and were not provided in the statute.
- (b) It was settled position of law that the power of the authority to impose restrictions and conditions must flow from the statute. In the present case, neither Act nor the Rules prescribe/confer power to the DGAP to impose restriction/condition in cases related to Anti-Profitteering. The Respondents further relied on the case *Union of India v. Inter Continental (India) 2008 (226) E.L.T. 16 (S.C.)* wherein it has been held that restriction could not be read by way of statutory interpretation. In this regard the Court held as follows:-

7. A three Judge Bench of this Court in the case of *Tata Teleservices Ltd. v. Commissioner of Customs* reported in (2016) 1 SCC 746 has taken a similar view. In para 10, it was held as under:

"We were of the view that the reasoning of the Bombay Bench of the Tribunal as well as that of the Andhra Pradesh High Court must be affirmed and the decision of the Delhi Tribunal set aside insofar as it relates to the eligibility of LSP 340 to the benefit of the exemption notification. The Andhra Pradesh High Court was correct in coming to the conclusion that the Board had, in the impugned circular, predetermined the issue of common parlance that was a matter of evidence and should have been left to the Department to establish before the adjudicating authorities. The Bombay bench was also correct in its conclusion that the circular sought to impose a limitation on the exemption notification which the exemption notification itself did not provide. It was not open to the Board to whittle down the exemption notification in such a manner."

8. Following the aforesaid decision of this Court in *Tata Teleservices Ltd. (supra)*, we do not find any merit in this appeal and dismiss the same leaving the Respondents to bear their own costs."

(c) In view of this, the Respondents have submitted that the imposition of condition to pass-on the benefit 'immediately' by the Respondents have to the customers/flat owners, was bad in law.

(vi) Section 171 was violative of Article 19(1)(g) of the Constitution and hence could not be invoked:-

- a) The provisions of Section 171 of the CGST Act were violative of Article 19(1)(g) of the Constitution of India. In this regard, the Respondents have submitted that Article 19 (1) (g) of the Constitution granted right to carry on trade or business and freedom to fix prices and earn profits.
- b) Now, as far as the present anti-profiteering provisions under Section 171 were concerned, those provisions mandatorily required the supplier to pass on the benefit of reduction in the rate of tax or the benefit of Input tax credit to the recipient. Thus, Section 171 of the CGST Act curtailed freedom of the Respondents to carry on trade or business by requiring them to fix prices and earn profits in a particular manner under the CGST Act. Thus, the said provision violated the fundamental right of the Respondents to do business under Article 19(1)(g).
- c) The Respondents have further submitted that the Section 171 on one hand required Respondents to do business in a particular manner but failed to provide any mechanism to actually arrive at the benefit stipulated under the above provision. Thus, Section 171 could not be invoked by the Authorities to initiate action against the Respondents.

(vii) Section 171 violated a statutory right available to the Respondents to decide the price themselves and the impact of tax:-

- a) The Respondents have further submitted that the provisions with respect to passing on the increased tax liability or reducing prices in case of tax benefit were well recognized under the Sale of Goods Act, 1930. In this regard, the Respondents have referred to Section 64A of the said Act, which read as follows:-

64A. In contracts of sale, amount of increased or decreased tax to be added or deducted.- (1) Unless a different intention appears from the terms of the contract, in the event of any tax of the nature described in sub-Section (2) being imposed, increased, decreased or remitted in respect of any goods after the making of any contract for the sale or purchase of such goods without stipulations as to the payment of tax where tax was not chargeable at the time of the making of the contract, or for the sale or purchase of such good tax paid where tax was chargeable at that time.

(a) if such imposition or increase so takes effect that the tax or increased tax, as the case may be, or any part of such tax was paid or was payable, the seller may add so much to the contract price as would be equivalent to the amount paid or payable in respect of such tax or increase of tax, and he should be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased tax only, or no tax, as the case may be, was paid or was payable, the buyer may deduct so much from the contract price as would be equivalent to the decrease of tax or remitted tax, and he should not be liable to pay, or be sued for, or in respect of, such deduction.

(2) The provisions of sub-Section (1) apply to the following taxes, namely: -

- (a) any duty of excise or excise on goods.
- (b) any tax on the sale or purchase of goods.

- b) The Respondents have submitted that Section 64A of the Sale of Goods Act permitted the Respondents to pass on the liability of benefit due to increase or decrease of tax amount. In other words, the statute allowed the Respondents to determine the passing-on of the liability or benefit as per their contract.
- c) The Respondents have submitted that this principle was reiterated by the Hon'ble Supreme Court in the case of *Rashtriya Ispat Nigam Ltd. vs. M/s Dewan Chand Ram Saran AIR 2012 SC 2829* wherein it was held that there was nothing in law to prevent the Respondents from entering into an

agreement to determine the passing-on of the burden of any tax. The Respondents have placed reliance on the judgment of *Numaligarh Refinery Ltd. vs. Daclim Industrial Co. Ltd.*, reported in [2007 (8) SCC 466.

- d) In the present case, when the Respondents and the customers/final owners had decided to pass-on the benefit at the time of possession, the protection to such arrangement was given by law. In view of such protection, the DGAP could not impose any other conditions contrary to the arrangement of the Respondents.
- e) The above provision clearly stipulated passing of the tax benefit or increased liability arising out of any tax legislation. Thus, the Respondents have statutory right to decide the price of any goods or services and to set-off the impact of tax. This concept was legally well recognized for businesses. Thus, Section 171 interfered with this legal right by mandating the Respondents to determine the price and to set off the tax impact in the particular manner and hence, invalid.

(vii) The DGAP could not assume the role of price fixation authority:-

The Respondents have further submitted that when they have agreed on to the manner of passing the GST benefit, the DGAP could not dictate any other method. The same was to be decided by the Respondents to the contract and could not be dictated by any third person.

(ix) Word "commensurate" within Section 171 was not same as "equivalent":-

- (a) Further, the words used in the provisions of Section 171 was "by way of commensurate reduction in prices" and thus this same could not be interpreted as "by way of equivalent reduction in prices". The interpretation of Authority amounted to substituting the expression 'commensurate' with the expression equivalent. Such an approach was not permissible in law.
- (b) The legislature has deliberately not used the word equivalent in this provision. Thus, provision under Section 171 has did not require mathematical precision and thus, if broadly also the benefit was passed there was sufficient

compliance of Section 171. For example, anti-profiteering obligation should be allowed to be complied with at product or invoice wise level as well.

- (c) Furthermore, anti-profiteering was not an exact science and was based on approximation. Thus, when overall benefit was passed then there was substantial compliance of anti-profiteering provisions. The Respondents have referred in this regard to decision of Hon'ble Apex Court in **CCF v. Harichand Shri Gopal 2010 (260) E.L.T. 3 (S.C.)** wherein it was held that substantial compliance referred to compliance with the essence of the provision/statute and would be treated as full compliance as follows:-

"In cases where substantial compliance has been found, there has been actual compliance with the statute, albeit procedurally faulty. The doctrine of substantial compliance seeks to preserve the need to comply strictly with the conditions or requirements that were important to invoke a tax or duty exemption and to forgive non-compliance for either unimportant and tangential requirements or requirements that were so confusingly or incorrectly written that an earnest effort at compliance should be accepted. The test for determining the applicability of the substantial compliance doctrine has been the subject of a myriad of cases and quite often, the critical question to be examined was whether the requirements relate to the "substance" or "essence" of the statute, if so, strict adherence to those requirements was a precondition to give effect to that doctrine. On the other hand, if the requirements were procedural or directory in that they were not of the "essence" of the thing to be done but were given with a view to the orderly conduct of business, they may be fulfilled by substantial, if not strict compliance. In other words, a mere attempted compliance may not be sufficient, but actual compliance of those factors which were considered as essential."

- (d) In view of the above as the anti-profiteering provision was based on thumb rule and itself did not prescribe any methodology, penny by penny compliance could not be insisted by the Authorities.
- (e) Further Section 171 only required that the benefit should be passed on and didn't provide that the benefit should be passed on within any specified

period. Thus, specifying any time limit went against the spirit of provision under Section 171 and thus untenable.

(x) Penalty could not be imposed under rule 133(3)(d):-

(a) The Respondents have further submitted that Rule 133(3)(d) allowed imposition of penalty by authority and read as follows:-

133. ---

(3) Where the Authority determines that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order –

(a) reduction in prices;

(b) return to the recipient, an amount equivalent to the amount not passed on by the way of commensurate reduction in prices along with interest at the rate of eighteen percent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be;

(c) the deposit of an amount equivalent to fifty percent of the amount determined under the above clause in the Fund constituted under Section 57 and the remaining fifty percent of the amount in the Fund constituted under Section 57 of the Goods and Services Tax Act, 2017 of the concerned State, where the eligible person did not claim return of the amount or was not identifiable;

(d) imposition of penalty as specified under the Act; and

(b) Thus, a perusal of the aforesaid Rule showed that Authority could impose penalty as specified under the Act. The Respondents have noted that specific penalty provisions have been added for violation of the provisions of Section 171(1) of the CGST Act which had come into force with effect from 1 January 2020, by insertion of Section 171(3A) which provided as under:-

(3A) Where the Authority referred to in sub-Section (2) after holding examination as required under the said sub-Section comes to the conclusion that any registered person has profiteered under sub-Section (1), such

person should be liable to pay penalty equivalent to ten per cent. of the amount so profiteered;

Provided that no penalty should be leviable if the profiteered amount was deposited within thirty days of the date of passing of the order by the Authority.

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

(c) Accordingly, as no penalty provisions were in existence between the period 01.07.2017 to 31.03.2019, the penalty prescribed under Section 171(3A) could not be imposed on the Respondents retrospectively.

(d) In this context, the Respondents have referred to the recent decision by the Authority in the case of M/s Edelco Infrastructures & Properties Ltd [F. No. 22011/NAA/117/Edelco/2018/4128-30]. The relevant extract of said decision was as below:-

"16. Since, no penalty provisions were in existence between the period w.e.f. 01.07.2017 to 31.03.2018 when the Respondent had violated the provisions of Section 171 (1), the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively. Accordingly, the notice dated 27.05.2019 issued to the Respondent for imposition of penalty under Section 171 (1) (i) was hereby withdrawn and the present penalty proceedings launched against him were accordingly dropped."

(e) Similar view was adopted in the decision by the Authority in the case of S3 InfraReality Pvt Ltd [F. No. 22011/NAA/115/S3 Infra/2018]

(xi) The Respondents always had the intention to pass on the benefits accruing to him to the customers:-

(a) The Respondents have stated that they had always been customer centric and had always taken measures towards providing maximum benefit admissible to their customers. This fact was also evident from the fact that

it had always from time-to-time communicated to their customers that they were aware about their responsibility to pass on the benefit accruing to them, if any, pursuant to implementation of GST by way of commensurate reduction of prices and was in the process of computing the same.

The Respondent No. 1			
As computed by the DGAP	Already passed on	Balance to be passed on	Excess Passed on
4,00,82,025	4,42,54,076	8,32,022	50,04,073

The Respondent No. 2		
As computed by DGAP	Already passed on	Balance to be passed on
1,06,75,257	51,64,736	55,10,521

- (b) This clearly demonstrated the intent of the Respondents that there had always been an intention to pass on the GST benefits accruing and as realized in terms of Section 171 should be passed on to the customers by way of commensurate reduction in price in the final Tax Invoice to be issued to the customers at the time of handing over the possession of the residential units.
- (c) Therefore, the present complaint filed against him was baseless and the allegation in the impugned reports that the Company has contravened provisions of Section 171 of the CGST Act in as much as it has failed to pass on the benefit to its customers was liable to be set aside.

(ii) Incremental credit considered instead of blocked credits:-

- (a) The DGAP has done the analysis basis the incremental credits arising out of the implementation of GST and thereafter applied a percentage on the said credits as an anti-profiteering measure.
- (b) The DGAP has merely done a comparison between the credits available in pre-GST with that available post implementation of GST without analyzing

the reasons. The actual reasons for the availability of such incremental credits were not looked into for arriving at the benefits to be passed. He has highlighted that there were primarily two reasons for such incremental credits:-

- Increase in tax rates i.e. tax on services from 15% to 18% and on goods from 22% to 28%
- Availability of blocked credits

(c) As stated above, the rate of tax on services was 15% in pre-GST regime, which was subsequently raised to 18% in GST. The credit availability/eligibility was not changing as service tax credits on execution of works contract was earlier available as CENVAT for utilization against the output tax liability; and the same continued to be available as credit under GST. The change on this account was the increase in tax rate from 15% to 18% for which additional working capital was applied. The said aspect should be taken into consideration as there was no change in the credit availability/eligibility and only an increase in tax rate was the reason for such incremental credits.

(d) Further, in pre-GST regime the credit of excise duty/VAT on inputs was not available as it was explicitly restricted. With the implementation of GST, the said restricted credits were available for availment and utilization, which needed to be passed on to the customers.

(e) Additionally, the Respondents have stated that the DGAP has not disputed the fact that the Respondents should be required to pass on only the benefit of incremental tax input arising on account of introduction of GST law w.e.f. 01.07.2017 in order to comply with the provisions of Section 171 of the CGST Act, 2017 and that such benefit must be passed on by way of commensurate reduction in prices. There was no reduction in rate of tax payable on construction services provided by the Respondents to their customers. Thus, it was imperative to understand and determine what construed incremental input tax credit for the Respondents, which should

be required to be passed on the customers by way of commensurate reduction in prices.

(f) The Respondents have submitted that the approach and methodology adopted by them to determine and pass on the benefit of additional input tax credit arising on account of introduction of GST regime, took into account all such above pre-GST taxes payable on procurements made for construction of the project which was otherwise not available as input tax credit to the them and therefore embedded into the cost of the project.

(g) Broadly, the eligibility of credits on availment of inward supplies/ purchases has been summarized by the Respondent No. 2 as follows:-

#	Category of Project cost	Nature of taxes levied	Credit eligible	Impact in Project cost
1	Purchase of materials (from manufacturers)	Excise duty State VAT / GST	No No	Embedded in project cost Embedded in project cost
2	Purchase of materials (from State VAT dealers)	State VAT / GST	No	Embedded in project cost
3	Availment of pure services	Service tax (incl. SBC and KKC)	Yes – Service tax and KKC No – SBC	Excluded from Project cost Embedded in project cost
4	Availment of activities qualifying as works contract	Service tax (incl. SBC and KKC) State VAT	Yes – Service tax and KKC No – State VAT and SBC	Excluded from Project cost Embedded in project cost

(h) The Respondents have submitted that post introduction of GST, the cost of construction of such residential units in the impugned Project should have a beneficial impact due to availability of credits towards purchase of goods or services or both which were to be made on or after 01.07.2017. As a result, in terms of approach of deriving the benefits by way of beneficial impact on the cost of construction which ultimately also had

beneficial impact on the value of construction services to be provided to the customers post GST, he had determined the value of such non-creditable taxes which were factored in the budgeted cost of construction for the impugned Project and which post GST, becoming creditable, should be reduced from the budgeted cost of construction towards purchases to be made on or after 01.07.2017 and which should be ultimately passed-on to customers by way of commensurate reduction in price of construction services to be provided i.e. invoiced to customers on or after 01.07.2017. The above basis for computation of GST benefit to be passed on to the customers by way of commensurate reduction in prices has already been submitted to the DGAP by him.

- (i) Additionally, the Respondents have stated that the above mentioned approach adopted in was consonance with the Press Release No. F. No. 296/07/2017-CX.9 dated 15.06.2017 wherein the Central Board of Indirect Taxes and Customs ('CBIC') had issued certain clarifications pursuant to complaints received from the people who had booked flats and made part payment were being asked to make entire payment before 01.07.2017 or to face higher tax incidence for payment made after 01.07.2017. The relevant extract of the said press release was as below:-

2. Central Excise duty was payable on most construction material @12.5%. It was higher in case of cement. In addition, VAT was also payable on construction material @12.5% to 14.5% in most of the States. In addition, construction material also presently suffer Entry Tax levied by the States. Input Tax Credit of the above taxes was not currently allowed for payment of Service Tax. Credit of these taxes was also not available for payment of VAT on construction of flats etc. under composition scheme. Thus, there was cascading of input taxes on constructed flats, etc.

3. As a result, incidence of Central Excise duty, VAT, Entry Tax, etc. on construction material was also currently borne by the builders, which they pass on to the customers as part of the price charged from him.

This was not visible to the customer as it forms a part of the cost of the flat.

....

5. This will change under GST. Under GST, full input credit would be available for offsetting the headline rate of 12%. As a result, the input taxes embedded in the flat will not (& should not) form a part of the cost of the flat....

6. The builders were expected to pass on the benefits of lower tax burden under the GST regime to the buyers of property by way of reduced prices/ installments..."

- (j) The Respondents have also argued that the DGAP has disputed that in order to quantify the benefit of input tax credit, it was necessary to quantify the credits available in the pre-GST as well as GST regime. The increase in input tax credit as a percentage of total taxable turnover availed by the Respondents post GST had been quantified. However, the input or input services-wise availability or non-availability of input tax credit prior and post implementation of GST had not been examined.
- (k) Further, the DGAP has agreed that the additional benefit of input tax credit in the GST regime would be limited to those input taxes, the credit of which was not allowed in the pre-GST regime but was allowed in the GST regime. This benefit would be required to be passed on to the customers by way of commensurate reduction in prices in terms of Section 171 of the CGST Act, 2017.
- (l) Thus, the Respondents have submitted that the approach and methodology adopted by them to determine the quantum of GST benefit to be passed on their customers was in consonance with Section 171 of the CGST Act, 2017 and was rational, logical and appropriate and therefore should be considered as the appropriate method or approach which logically derived the amount of the incremental credit which could have been flown to the developer on introduction of GST, which could be further

substantiated by the fact that the percentage of input tax credit to be passed on to the customers as determined by the DCAI³ and as determined by the Respondents were almost identical.

(xiii) Same methodology cannot be applied for every industry:-

- (a) The Respondents have highlighted that real estate industry was a service industry and was different than a manufacturing/trading concern. The real estate industry had its own mode of operation, pricing, marketing, service delivery. Real estate industry differed from region to region, state to state and city to city.
- (b) In real estate industry the price being offered to different customers was dependent on multiple factors such as time of supply, stage of completion of the property, working capital requirement, holding capacity of the developer, change in law (such as enactment of RERA, change in the rate of stamp duty), payment schedule of the customer, advance payments from the customers, mode of booking of the flats etc.
- (c) The price that got negotiated for each of the customer was dependent on various factors. Few of the factors have been listed below on which basis the final price was negotiated: -
- Regulatory requirement- Real Estate Regulation Act (RERA) requires disclosure of a composite price as against component wise breakup as required under Maharashtra Ownership of Flats Act (MOFA)
 - Payment plan taken by customer for e.g. Construction linked payment, 20:80 payment scheme, 10:90 payment scheme etc.
 - Booking method i.e. direct booking or booking through agent/broker which will incur additional cost of brokerage.
 - Exclusive usage of parking as well as number/type of parking taken by customer.
 - Bare shell flat or fully loaded flat- Cost of interior development

- Operational schemes/discounts- Festivals offers on Akshay Tritiya, Gudi Parva, free stamp duty/registration etc.
- Stage of construction for e.g. booking in pre-launch of project vs booking at considerable completion of project.
- Knowledge of customer of market, prices of competitor in near vicinity, location preference of customer.

(xiv) The Excess benefit already passed:-

- (a) The Respondent No. 1 has stated that he had already passed the benefit equivalent to 2.5% of the total amount due from the customers whose installments were due, while for new customers the sale price was recalibrated to give effect to the above reduction.
- (b) The above aspect was squarely covered by the DGAP in his Report dated 31.05.2020, wherein the DGAP has determined that the Respondent No. 1 had passed on additional benefit through price reduction to other customers of the project amounting to Rs. 50.04 lakhs, whereas the pending amount to be transferred amounts to only Rs. 8.32 lakhs.
- (c) The above approach was more acceptable considering that input tax credit was seen for the company as a whole and there was no individual allocation of input tax credit to the individual customers. For instance, in case of any property advertisement the intended audience was public at large and not identified customers.
- (d) Similarly, the benefit of input tax credit should be considered for a group as a whole and not individual customers.

(xv) GST Input Tax Credit benefit to the extent worked out was already passed:-

- (a) The Respondent No. 2 vide his letter dated 19.8.2020 to the DGAP had provided the list of 37 customers to whom the GST benefit amounting to Rs. 51,64,736/- as per Section 171 of the CSGT Act, 2017 was passed on. The Credit note was for GST Input Tax Credit benefit flat wise. The Credit notes were issued to the customers from time to time. Their receivables were reduced to the extent of GST input credit amount. They

had submitted to the DGAP the credit note for the GST Input Tax Credit benefit amounting to Rs. 51,64,736/-

(b) The DGAP had sent e-mails dated 02.12.2020 and reminder e-mails dated 11.12.2020 to 20 customers to confirm the receipt of benefit passed on by the Respondent No. 2. In all 8 home buyers which constituted 21.62% of total customers to whom ITC benefit have been passed had replied and confirmed the receipt of amount. The Respondent No. 2 had noted that no buyer had replied in negative, therefore, to allow the amount of Rs. 51,64,736/- as credit already passed to the home buyers as per Section 171 of the CGST Act.

(xvi) GST cannot be computed on the amount of GST benefit to be passed on to the customers:-

The Respondent No. 2 has submitted that the DGAP had considered the levy of GST @ 12% on the recalibrated base price whereas the Respondent No. 2 had paid the GST component to the exchequer on the 'Total base price collected/raised' i.e. on the demand value. Therefore to that extent it should not be construed that the Respondent No. 2 has profiteered under the GST. Hence, the Respondent No. 2 has stated that basis for computation of 'Excess collection of demand or profiteered amount' adopted by the DGAP by comparing the 'Total amount collected/raised' by the Respondent No. 2 and 'Commensurate demand price' computed on the recalibrated base price as computed by the DGAP was not sustainable. Thus, the approach of the DGAP to not consider the GST tax component actually paid by the Respondent No. 2 in arriving at the value of 'Commensurate demand price' was incorrect and needed re-consideration to arrive at the correct value of 'Excess collection of demand or profiteered amount' by the Respondent No. 2.

5. Supplementary Reports were sought from the DGAP against the Respondents' submissions dated 13.11.2020, 23.01.2021 and 25.01.2021. In response, the DGAP vide his replies dated 03.12.2020, 15.12.2020 and 19.03.2021, which are

summarised as under:-

- (a) The Respondent No. 2 vide letter dated 13.11.2020, *inter alia* had submitted that he had passed on the benefit of input tax credit amounting to Rs. 51,64,736/- to 37 customers out of 72 home buyers (to whom benefit of input tax credit was required to be passed on) and enclosed copies of credit notes vide which such benefit was passed on.
- (b) In this regard, the DGAP has sent e-mails dated 02.12.2020 and reminder e-mails dated 11.12.2020 to 20 customers to confirm the receipt of benefit passed on by the Respondent No. 2. In response, 8 home buyers (constitute 21.62% of total customers to whom benefit passed on by the Respondent No. 2 had replied so far and all confirmed the receipt of amount. No buyer had replied in negative. The replies from rest of the home buyers were awaited.
- (c) Further, the DGAP in his verification report vide letter dated 19.03.2021 on the claim of the Respondent No. 1 w.r.t passing on the benefit of ITC in respect of 26 homebuyers and claim of the Respondent No. 2 w.r.t passing on the benefit of ITC in respect of 4 homebuyers (as selected by the Authority) has stated that e-mails were sent on 12.03.2021 to the 26 respective home buyers to confirm the receipt of the benefit as claimed to have been passed on by the Respondent No. 1. In response, 18 home buyers had replied so far and all have confirmed the receipt of amount. No buyer has replied in negative. Replies from 7 home buyers were awaited. Similarly, the DGAP had sent e-mails on 18.03.2021 to the 4 respective home buyers to confirm the receipt of the benefit as claimed to have been passed on by the Respondent No. 2. In response, all home buyers had replied and had confirmed the receipt of amount. No buyer had replied in negative.
- (d) 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 were enshrined in Section 1/1 (1) of the CGST Act, 2017 itself which stated that *"Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices."*

Therefore, Section 171 itself provided the procedure and methodology for determination of the profiteered amount and therefore, no guidance was required to be provided. The Respondents have got benefit of ITC which they were required to pass on. The DGAP has also submitted that the facts of each case were different so quantum of profiteering was determined by taking into account the particular facts of each case. Hence, there could not be one-size-fits-all mathematical methodology. The DGAP has also submitted that the additional ITC which had accrued to them on account of the implementation of the GST was required to be passed on to their customers, but a straight jacketed approach was not feasible as the facts of each case vary substantially.

- (e) According to the DGAP, 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 realised before and after the GST implementation would always be different than those of 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 that of 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 were issued. Therefore, no set of parameters could 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.

Further, the Parliament as well as all the State Legislatures has delegated the task of framing of the Rules under the CGST Act, 2017 to 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 DGAP, on the recommendation of the GST Council, which was a Constitutional federal body created under the 101st Amendment of the

Constitution, as per Rule 127 and 133 of the CGST Rules, 2017. Further, the power to determine its own Methodology & Procedure has been delegated to the Authority under Rule 126 of the above Rules as per the provisions of Section 164 of the above Act as such power was generally and widely available to all the judicial, quasi-judicial and statutory authorities to carry out their functions and duties and hence no special favour has been shown to the Authority while granting such power. The Authority has only been allowed to "determine" the methodology and not to "prescribe it" which it has to do keeping in view the facts of individual case. Since the functions and powers to be exercised by the Authority have been approved by competent bodies, the same were legal and binding on the Respondents.

Further, the facts of the cases relating to the Fast Moving Consumer Goods (FMCGs), restaurants, construction and cinema houses were completely different and therefore, the mathematical methodology employed in the case of one sector cannot be applied in the other sector otherwise it would result in denial of the benefit to the eligible recipients. Moreover, both the above benefits have been granted by the Central as well as the State Governments by sacrificing their tax revenue in the public interest and hence the suppliers were not required to pay even a single penny from their own pocket and hence he has to pass on the above benefits as per the provisions of Section 171 (1).

The DGAP has submitted that he had not adopted any self-derived method for computing the profiteering amount, but has compared the ITC to turnover ratio in pre & post GST periods in the present case which was rational, logical & appropriate in terms of Section 171 and the same has been approved by the Authority in similarly placed cases.

- (f) The DGAP submitted that the methodology adopted by it was correct and strictly as per law enshrined in Section 171 of the CGST Act. Such methodology has been consistently adopted by the DGAP and upheld by the Authority in all similar cases. In order to quantify the benefit of input tax credit, it was necessary to quantify the credits available to the Respondents in the pre-GST regime and also the credits available in the GST regime.

Further, the amount of the additional benefit of ITC required to be passed on, was the amount paid by the customers or flat buyers to the Respondents in the form of GST charged from them which was to be deposited by the Respondents to the Government exchequer. But the Respondents instead of paying this GST amount in cash to the Government exchequer utilized the ITC available to them in addition to the credit which was not available to them in pre-GST period. Therefore, Respondents were not required to pay anything from their own pocket to pass on the benefit of additional ITC accrued to them in GST period. Hence, the methodology adopted by the DGAP was correct and justifiable.

Further, in the DGAIP's Report dated 31.08.2020, the increase in input tax credit as a percentage of total taxable turnover availed by the Respondents post-GST has been quantified. The input or input service wise availability or non-availability of input tax credit prior and post implementation of GST had not been examined. Further, there should be no extra liability on the Respondents on account of increase in rate of GST compared to Service Tax as the supplier of input services were now also enjoying input tax credit on all the purchases made by them, resulting in reduction in prices of the materials purchased by them which should pass on to the consumers.

In the erstwhile pre-GST regime, various taxes and Cess were being levied by the Central Government and the State Governments, which got subsumed in the GST. Out of these taxes, the input tax credit (ITC) of some taxes was not being allowed in the erstwhile tax regime. For example, the input tax credit of Central Sales Tax, which was being collected and appropriated by the States, was not admissible. Similarly, in case of construction service, while the input tax credit of Service Tax was available, the input tax credit 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 with effect from 01.07.2017, all these taxes got subsumed in the GST and the input tax credit of GST was available in

respect of all goods and services, unless specifically denied. Broadly, the additional benefit of input tax credit in the GST regime would be limited to those input taxes, the credit of which was not allowed in the pre-GST regime but was allowed in the GST regime. This additional benefit of input tax credit in the GST regime was required to be passed on by the suppliers to the recipients by way of commensurate reduction in price, in terms of Section 171 of GST Act, 2017.

Therefore, it was reiterated that the approach & methodology adopted by DGAP was in consonance with the provisions of Section 171 of the Central Goods and Services Tax Act, 2017.

Moreover, there was direct correlation between the turnover and the ITC as the Respondents were discharging their GST output liability out of the ITC available to them on the basis of the turnover i.e. the cost realised by them from the buyers. Moreover, the benefit was to be passed on the additional ITC proportionate to the payment made by a buyer and hence the above ratios were relevant. Therefore, the above claim of the Respondents could not be accepted.

(g) As per the DGAP, he had categorically stated in para-25 of his Report dated 31.08.2020 that the excess benefit passed on to some recipients, could not be set off against the additional benefit required to be passed on to the other recipients as per Annexure-25 of the above Report and it could only be adjusted against any future benefit that might accrue to such recipients. ✓

6. The Authority has carefully considered the Reports of the DGAP, submissions made by the Respondents including during the personal hearing and the case record, it emerges from the facts that the present project "Kanakia Sevens" is being developed and constructed under the Joint Development Agreement (JDA) and the Sub-Development Agreements executed between the Respondent No. 1 and the Respondent No. 2, in which the Respondent No. 1 was the "Sub-Developer" and the Respondent No. 2 was the "Scheme Owner" and the "Developer" of the project. It is also revealed that the above project consisted of

two buildings (a) Free sale building which was to be constructed by the Respondent No. 1; and (b) Rehabilitation building which was to be constructed by the Respondent No. 2 at his own cost to rehabilitate the existing residents who were occupying the land prior to the construction of the free sale building, as per the provisions of the State "Slum Rehabilitation Scheme (SRA)". It is further revealed that the free sale residential building consisted of 564 units which were to be distributed between the Respondent No. 1 and the Respondent No. 2 on the basis of their respective shares as per the JDA in which the Respondent No. 1 has 53.4% share and the Respondent No. 2 has 46.6% share. Accordingly, out of total saleable area of 5,85,562 sq. ft. of the free sale building, the share of the Respondent No. 1 was 3,13,825 sq. ft. and the share of the Respondent No. 2 was 2,71,737 sq. ft. Further, it is on record that Applicant No. 1 had filed a complaint alleging that the Respondent No. 1 has not passed on the benefit of ITC to her by way of a commensurate reduction in the price of the flat purchased by her (Applicant No. 1) from the above Respondent. We find that the DGAP, after a detailed investigation, has found that the Respondents have not passed on ITC benefit amounting to Rs. 5,07,57,281/- (inclusive of GST) to their recipients/homebuyers as required under the provisions of Section 171 of the CGST Act, 2017. We observe that the details of the benefit required to be passed on to the eligible homebuyers have been detailed by the DGAP vide Annexure-23 & 24 of his Report dated 31.08.2020.

7. On examining the various submissions we find that the following issues need to be addressed:-

- a) Whether there was any violation of the provisions of Section 171 (1) of the CGST Act, 2017 in this case?
- b) If yes what was the additional benefit of ITC that has to be passed on to the recipients?
- c) Besides the above, various other issues raised by the Respondent viz. constitutional validity of Section 171; methodology adopted by the DGAP,

cost of land for inclusion in the value etc. also need to be addressed by the Authority.

8. The Respondents have questioned the methodology adopted by the DGAP in computing the benefit of input tax credit as it was not in accordance with the provisions of Section 171 of CGST Act, 2017. In this regard, this Authority finds that the the 'Procedure and Methodology' for passing on the benefits of reduction in the rate of tax and ITC or for computation of the profiteered amount has been outlined in Section 171 (1) of the CGST Act, 2017 itself which provides that *"any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices."*

It is apparent from the plain reading of the above provision that it mentions "reduction in the rate of tax or benefit of ITC", which means that if any reduction in the rate of tax is ordered by the Central and the State Governments or a registered supplier avails benefit of additional ITC post GST implementation, the same have to be passed on by him to his recipients since both the above benefits are being given by the above Governments out of their scarce and precious tax revenue. It also provides that the above benefits are to be passed on any supply i.e. on each product or unit of construction or service to every buyer and in case they are not passed on, the quantum of denial of these benefits or the profiteered amount has to be computed for which investigation has to be conducted in respect of all such products/units/services by the DGAP.

9. What would be the 'profiteered amount' has been clearly defined in the explanation attached to Section 171.

These benefits can also not be passed on at the entity / organisation / branch/ invoice/ business vertical level as they have to be passed on to each and every buyer at each product/unit/service level by treating him equally.

The above provision also mentions "any supply" which connotes each taxable supply made to each recipient thereby making it evident that a

supplier cannot claim that he has passed on more benefit to one customer on a particular product therefore he would pass less benefit or no benefit to another customer than what is actually due to that customer, on another product. Each customer is entitled to receive the benefit of tax reduction or ITC on each product or unit or service purchased by him subject to his eligibility.

10. The term "commensurate" mentioned in the above sub-section provides the extent of benefit to be passed on by way of reduction in the price which has to be computed in respect of each product or unit or service based on the price and the rate of tax reduction or the additional ITC which has become available to a registered person. The legislature has deliberately not used the word 'equal' or 'equivalent' in this Section and used the word 'commensurate'. The benefit of additional ITC would depend on the comparison of the ITC/CENVAT credit which was available to a builder in the pre-GST period with the ITC available to him in the post GST period w.e.f. 01.07.2017.

11. Similarly, the benefit of tax reduction would depend upon the pre rate reduction price of the product and quantum of reduction in the rate of tax from the date of its notification. Computation of commensurate reduction in prices is purely a mathematical exercise which is based upon the above parameters and hence it would vary from product to product or unit to unit or service to service and hence no fixed mathematical methodology can be prescribed to determine the amount of benefit which a supplier is required to pass on to a buyer.

12. Computation of the profiteered amount is also a mathematical exercise which can be done by any person who has elementary knowledge of accounts and mathematics as per the Explanation attached to Section 171. To further explain the legislative intent behind the above provision, this Authority has been authorised to determine the 'Procedure and Methodology' which has been done by it vide its Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017. However, no fixed

mathematical formula, in respect of all the Sectors or the products or the services, can be set for passing on the above benefits or for computation of the profiteered amount, as the facts of each case are different.

In the case of one real estate project, date of start and completion of the project, price of the flat/shop, mode of payment of price or instalments, stage of completion of the project, rates of taxes pre and post GST implementation, amount of CENVAT credit and ITC available, total saleable area, area sold and the taxable turnover received before and after the GST implementation would always be different from 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 the other project. Therefore, no set procedure or mathematical methodology can be framed for determining the benefit of additional ITC which has to be passed on to the buyers of the units.

13. Moreover, this Authority under Rule 126 has been empowered to 'determine' Methodology & Procedure and not to 'prescribe' it. Similarly, the facts of the cases relating to the sectors of Fast Moving Consumer Goods (FMCG), restaurant service, construction service and cinema service are completely different from each other and therefore, the mathematical methodology adopted in the case of one sector cannot be applied to the other sector. Both the above benefits are being given by the Central as well as the State Governments as a special concession out of their tax revenue in the public interest and hence the suppliers are not required to pay even a single penny from their own pocket and therefore, they are bound to pass on the above benefits as per the provisions of Section 17(1) which are abundantly clear, unambiguous, mandatory and legally enforceable.

14. It is abundantly clear from the above narration of the facts and the law that no elaborate mathematical calculations are required to be prescribed separately for passing on the benefit of ITC and computation of the profiteered amount. The Respondent cannot deny the benefit of ITC to his customers on the above ground and enrich himself at the expense of his buyers as Section 17(1) provides clear cut methodology and procedure to

compute the benefit of ITC and the profiteered amount and he is well aware of the benefit of additional ITC which he has obtained post-GST.

15. The case laws of *State of Punjab & Ors. v. Bhajan Kaur & Ors.*, AIR 2008 SC 2276, *CCE v. Harchand Shri Gopal* 2010 (260) E.L.T. 3 (S.C.) *Union of India v. Ind-Swift Laboratories Ltd.*, (2011) 4 SCC 635, *CIT vs. Calcutta Knitweavers* (2014) 362 ITR 673 (SC) and *V. Fernandez vs. State of Kerala*, [AIR 1957 SC 657] are related to collection of taxes and the matter in instant case is related to passing of the benefits so here the relied upon case laws are not applicable in the present case. Therefore, the Authority finds that the contention of the Respondents regarding absence of methodology is untenable and hence rejected.

16. The Respondents have contended that power to determine the methodology amounted to excessive delegation of law as the methodology to determine Anti-Profitereing was a substantive in nature. However, the Authority finds that the above contention of the Respondents is incorrect as the Parliament as well as all the State Legislatures 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 this 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. Further, the power to determine its own Methodology & Procedure has been delegated to this Authority under Rule 126 of the above Rules as per the provisions of Section 164 of the above Act as such power is generally and widely available to all the judicial, quasi-judicial and statutory authorities to carry out their functions and duties.

The above delegation has been granted to this Authority after careful consideration at several levels and therefore, there is no ground for claiming that the present delegation is excessive. Hence, we find that the cases of *Harishankar Bagla v. State of Madhya Pradesh* [(1955) 1 SCR 381, 388], *Gulabchand Bapulal*

Modi v. Municipal Corpn. of Ahmedabad City, (1971) 1 SCC 823 CIT Vs. B.C. Srinivasa Shetty [1981-2-SCC-460], Commissioner of Central Excise Vs. Larsen & Turbo Limited [2016-1-SCC-170] and M/s. Indian Aluminum Co. Limited and Anr. Vs. The State of Bihar and Ors. [1994-1-PJLR] are not relevant in the present case.

17. The Respondents have argued that Section 171 is violative of Article 19(1)(g) of the Constitution. We find that, such contention of the Respondents is not correct as the Authority has not acted in any way as price controller or regulator as it doesn't have the mandate to regulate the same. The Respondents are absolutely free to exercise their 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. They can also fix their prices and profit margins in respect of the supplies made by them. Under Section 171 this Authority has only been mandated to ensure that both the benefits of tax reduction and ITC which are the sacrifices of precious tax revenue made from the kitty of the Central and the State Governments are passed on to the end consumers who bear the burden of tax. The intent of this provision is the welfare of the consumers who are voiceless, unorganised and vulnerable. This Authority is charged with the responsibility of ensuring that the both the above benefits are passed on to the general public as per the provisions of Section 171 read with Rule 127 and 133 of the CGST Rules, 2017. This Authority has neither interfered with the business decisions of the Respondents nor infringed upon their rights under Section 64A of the Sale of Goods Act, 1930 and therefore, there is no violation of Article 19 (1) (g) of the Constitution. Therefore, we hold that, the cases of *Rasthriya Ispat Nigam Ltd. vs. M/s Dewan Chand Ram Saran AIR 2012 SC 2829*, *Numaligarh Refinery Ltd. vs. Daelim Industrial Co. Ltd., reported in [2007 (8) SCC 466* and *Union of India v. Inter Continental (India) 2508 (226) E.L.T. 16 (S.C.)* are not applicable in the present case.

18. The Respondents have contested the incremental credit considered by the DGAP in his Report dated 31.08.2020 instead of blocked credit. In this regard, this Authority agrees with the DGAP that prior to 01.07.2017, i.e., before the GST was introduced, the Respondents were eligible to avail credit of Service Tax paid on

the input services (CENVAT credit of Central Excise Duty was not available) in respect of the units for the project "Kanakia Sevens" sold by them. The Respondents were not eligible to avail ITC of VAT paid on the inputs as they were availing Composition Scheme. Further, post-GST, the Respondents became eligible to avail ITC of GST paid on all the input goods and services. The Respondents are not correct in their claim that they have been compelled to pay more GST on services of 18% when Service Tax in the pre-GST period was 15% only, because, not even a single rupee of tax was being paid in the pre-GST regime or in the post-GST regime by them as they were either getting full CENVAT credit on the taxes paid by them in the pre-GST period and/or was adding those taxes on which ITC was not available like the Central Excise Duty in their cost of the flat and realizing it from their customers. They are also getting full ITC on all the taxes paid by them on their purchase of goods and services in the post GST period and are also charging GST from their buyers, hence there has been no adverse impact on this tax liability post-GST. Therefore, this contention of the Respondents is not tenable.

19. The Respondents have argued that various factors like Regulatory requirements- Real Estate Regulation Act (RERA) requires disclosure of a composite price as against component wise breakup as required under Maharashtra Ownership of Flats Act (MOFA); Payment plan taken by customer for e.g. Construction linked payment, 20:80 payment scheme, 10:90 payment scheme etc.; Booking method (i.e. direct booking or booking through agent/broker which would incur additional cost of brokerage; Exclusive usage of parking as well as number/type of parking taken by customer; Bare shell flat or fully loaded flat- Cost of interior development; Operational schemes/discounts- Festivals offers on Akshay Tiliya, Gudi Parva, free stamp duty/registration etc.; Stage of construction for e.g. booking in pre-launch of project vs booking at considerable completion of project; Knowledge of customer of market, prices of competitor in near vicinity, location preference of customer are considered while fixing price. We find that this contention is without any basis as these are promotional schemes launched by the Respondents to increase their sales and have nothing to do with ITC benefit. Therefore,

irrespective of above parameters, they cannot deny ITC benefit to the eligible buyers as per Section 171.

20. The Respondents have averred that the computation of profiteered amount has considered additional tax of 12% on alleged GST benefit. This Authority finds that the above contention raised by the Respondents is not correct as the Respondents have not only collected excess base prices from the customers which they were not required to pay due to the reduction in the rate of tax but they have also compelled them to pay additional GST on such excess base prices which they should not have paid. By doing so the Respondents have defeated the very objective of both the Central as well as the State Governments which aimed to provide the benefit of ITC to the general public. The Respondents were legally not required to collect the excess GST and therefore, they have not only violated the provisions of the CGST Act, 2017 but has also acted in contravention of the provisions of Section 171 (1) of the above Act as they have denied the benefit of ITC to their customers by charging excess GST. Had the Respondents not charged the excess GST, the customers would have paid less price while purchasing the flats from the Respondents and hence the above amount has rightly been included in the profiteered amount as it denotes the amount of benefit denied by the Respondents. Therefore, this Authority finds that the above contention of the Respondents is untenable and hence it cannot be accepted.

21. The Respondent No. 1 has claimed that he had passed on the ITC benefit of an amount of Rs. 38,66,614/- higher than what he should have passed on in respect of 108 home buyers. The details of this excess benefit passed by the Respondent No. 1, has been given in Annexure-26 of the DGAP's Report. We find that, this excess benefit passed on to some recipients, could not be set off against the additional benefit required to be passed on to the other recipients as per Annexure-25 of the DGAP's Report and it could only be adjusted against any future benefit that might accrue to such particular recipients. Hence, the above plea of the Respondent cannot be accepted.

22. We find that, it is clear from a plain reading of Section 171 (1) of the CGST Act, 2017 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 clear from the DGAP's Report that there has been no reduction in the rate of tax in the post GST period from 01.07.2017 till 31.03.2019. Thereafter, there was reduction in rate from 12% to 5% (without ITC) as the Respondents have opted for composition scheme. Therefore, the benefit of reduction in rate of tax of 7% [12% (-) 5%] without ITC would be available in respect of units sold on or after 01.04.2019 and therefore, no further benefit of ITC was required to be passed on the demand to be raised on or after 01.04.2019 as the additional benefit of ITC available to the Respondent No. 1 & 2 was 2.36% which was lower than 7% reduction in rate of tax of GST. Hence, the other issue to be examined is as to whether there was any net benefit of ITC with the introduction of GST, which could have been transferred to recipients. On this issue it has been reported by the DGAP, as tabulated above, that the ITC as a percentage of the turnover that was available to the Respondents during the pre-GST period (April-2016 to June-2017) was 1.45% and during the post-GST period (July-2017 to March-2019), it was 3.81%. Hence, according to the DGAP, post-GST, the Respondents have been benefited from additional ITC to the tune of 2.36% (3.81%-1.45%) of turnover and the same was required to be passed on to the eligible customers/ flat buyers/ recipients other than the Applicant No. 1. Therefore, the amount of ITC benefit to be passed on to all the eligible customers/ flat buyers/ recipients is Rs. 5,07,57,281/-. Out of which the Respondent No. 1 has benefited by an additional amount of input tax credit, by an amount of Rs. 4,00,82,024/- which included GST @12% on the base amount of Rs. 3,57,87,521/-. The buyers and unit no. wise break-up of this amount has been given in **Annexure-23** to the DGAP's Report dated 31.08.2020. Similarly, the Respondent No. 2 has benefited by an additional amount of input tax credit, by an amount of Rs. 1,06,75,257/- which included GST @12% on the base amount of Rs. 95,31,480/-. The buyers and unit no. wise break-up of this amount has been given in **Annexure-24** to the DGAP's Report dated

31.08.2020.

23. In view of the above discussions, the Authority concurs with the DGAP's Report dated 31.08.2020. The Authority determines that the Respondent No. 1 and 2 have profited by an amount of Rs. 4,00,82,024/- and Rs. 1,06,75,257/- respectively for the project 'Kanakia Sevens' during the period of investigation i.e. 01.07.2017 to 31.03.2019. The investigation has revealed that the Applicant No. 1 had not paid any amount during the period under investigation and therefore, the above profiteering amounts did not include any amount pertaining to the above Applicant. Further, the Respondent No. 1 has claimed that he had passed on the benefit of input tax credit amounting to Rs. 4,31,16,616/- to all eligible 258 home buyers/customers/recipients. The Respondent No. 2 has claimed that he had passed on the benefit of input tax credit amounting to Rs. 51,64,736/- to 37 home buyers/customers/recipients out of 72 home buyers/customers/recipients. The DGAP vide his verification report dated 19.03.2021 has confirmed the claim of the Respondents regarding passing of the ITC benefit in respect of 23 home buyers/customers/recipients only. As per the said report, only 23 home buyers/customers/recipients out of 328 eligible home buyers/customers/recipients have confirmed receipt of the ITC benefit and the remaining home buyers/customers/recipients did not respond to the communication made by the DGAP. Thus, evidence in respect of only 23 out of 328 eligible customers/recipients has been submitted. Hence, above claims of the Respondents and the DGAP's verification is neither definitive nor conclusive. Hence, the same cannot be accepted.

24. This Authority under Rule 133 (3) (a) of the CGST Rules, 2017 orders that the Respondents shall reduce the prices to be realized from their respective buyers of the flats/shops/units commensurate with the benefit of ITC received by them as has been detailed above.

25. The Respondents are also liable to pay interest as applicable on the entire amount profited, i.e. Rs. 5,07,57,281/- for the project 'Kanakia Sevens' as

per their share. Hence the Respondents are directed to also pass on interest @18% to their respective customers/ flat buyers/ recipients on the amount profiteered by them, starting from the date from which the above amount was profiteered till the date of passing on/ payment, as per provisions of Rule 133 (3) (b) of the CGST Rules 2017.

26. Complete lists of home buyers/customers/recipients have been attached with this Order, with the details of amount of benefit of ITC to be passed along with interest @ 18% in respect of the project 'Kanakia Sevens' of the Respondent No. 1 & 2 as per **Annexure-A & B** respectively.

27. We also order that the profiteering amount of Rs. 5,07,57,261/- for the project 'Kanakia Sevens' along with the interest @ 18% from the date of receiving of the profiteered amount from the home buyers/customers/recipients till the date of passing the benefit of ITC shall be paid/passed on by the Respondents within a period of 3 months from the date of passing of this order failing which it shall be recovered as per the provisions of the CGST Act, 2017.

28. It is also evident from the above narration of facts that the Respondents have denied benefit of ITC to the buyers of the flats/shops/units being constructed by them in the project 'Kanakia Sevens' in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and have committed an offence under Section 171 (3A) of the above Act. However, perusal of the provisions of Section 171 (3A) under which penalty has been prescribed for the above violation shows that it has 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 Respondents had committed the above violation and hence, the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondents retrospectively. Accordingly, notice for imposition of penalty is not required to be issued to the Respondents.

29. The concerned jurisdictional CGST/SGST Commissioner is directed to ensure compliance of this Order. It may be ensured that the benefit of ITC is passed on to

each home buyer/customer/recipient as per Annexure- A & B attached with this Order along with interest @18% as prescribed. In this regard an advertisement of appropriate size to be visible to the public may also be published in minimum of two local Newspapers/vernacular press in Hindi/English/local language with the details i.e. Name of builders (Respondents) – M/s Kanakia Spaces Realty Pvt. Ltd. and M/s New Monarch Builders & Contractors, Project- 'Kanakia Sevens' Location- Maharashtra and amount of profiteering Rs. 4,00,82,024/- and Rs. 1,06,75,257/- respectively (total Rs. 5,07,57,281/-), so that the concerned homebuyers can claim the benefit of ITC if not passed on. Homebuyers/customers/recipients 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 Commissioner may also be advertised through the said advertisement.

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

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

"A period of limitation in all such proceedings, irrespective of the limitation proscribed 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.

32. A copy each of this order be supplied, free of cost, to the DGAP, the Respondents, the Applicant No. 1, the concerned Commissioners CGST /SGST, the Secretary, Town Planning and Valuation Department, Maharashtra State and Maharashtra RERA for necessary action. File be consigned after completion.

Annexed: Annexure A in Pages 1 to 5 and
Annexure B in Pages 1 to 2.


Sd/-
(Amand Shah)
Technical Member &
Chairman



Sd/-
(Pramod Kumar Singh)
Technical Member

Sd/-
(Hitash Shah)
Technical Member

Certified Copy


(Dinash Meena)
Secretary, NAA

F.No. 22011/NAA/111/Kanakia/2018/8038-545
Copy to:-

Dated: 31.08.2022

1. M/s Kanakia Spaces Realty Pvt. Ltd., 215-Atrium, 10th Floor, Andheri Kuria road, J. B. Nagar, Andheri(East), Mumbai-400093.
2. M/s New Monarch Builders & Contractors, B/701-705, Raylon Arcade, Ram Krishna Mandir road, Andheri (E), Mumbai-400059.
3. Ms. Meenal Gupta, A-401, Shree Villa CHS, CD Barfiwala Marg, Andheri West, Mumbai-400058,

4. Directorate General of Anti-Profitteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
5. The Chief Commissioner, Mumbai Zone, CGST & C.Ex., 115, GST Bhavan, M. K. Road, Churchgate, Mumbai-400020.
6. The Commissioner of State Tax, Maharashtra State, GST Bhavan, Mazgaon, Mumbai-400010.
7. The Director, Town Planning, Maharashtra, Pune Central office, Old Building, Pune-411001.
8. Chairman, Maharashtra Real Estate Regulatory Authority, 6th & 7th Floor, Housefin Bhavan, Plot No. C - 21, E - Block, Bandra Kurta Complex, Bandra (E), Mumbai-400051.
9. Guard File.

ANNEXURE-A

LIST OF HOMEBUYERS OF THE PROJECT "KANAKIA SEVENS"

WHERE M/S KANAKIA SPACES REALTY PVT. LTD. HAS TO PASS ON THE ITC BENEFIT TO ELIGIBLE FLAT/SHOP BUYERS

S.No.	Name of Customer	Wing	Unit No.	Amount of ITC benefit to be passed on (Amount in Rs.)
1	Sayed Mohid Parvez	Shop	C008	3,31,478
2	Virek Sharma	D Wing	D 1003	56,586
3	Rajag Bhalchandra Tarkur	D Wing	D 101	47,902
4	Artata Mangal	D Wing	D 102	46,432
5	Kumar Murlidhar Agroni	D Wing	D 104	5,64,173
6	Jeenam Prem Mendla	D Wing	D 105	94,141
7	Samir Joshi	D Wing	D 1101	48,579
8	Yamini Jayasuresh Iyer	D Wing	D 1102	82,350
9	Jyoti Ganjay Agrawal	D Wing	D 1103	44,243
10	Sushil Kishore Asar	D Wing	D 1106	2,73,114
11	Anandina D. Pathak	D Wing	D 1203	69,384
12	Anandina D. Pathak	D Wing	D 1204	73,732
13	Abbas Saifdar Dean	D Wing	D 1205	63,049
14	Geeta Parulkar	D Wing	D 1301	55,255
15	Saikat Kumar	D Wing	D 1302	4,34,730
16	Pawan Kumar Bhurule Agrawal	D Wing	D 1304	55,987
17	Sumitradevi Jagdishprasad Potkar	D Wing	D 1404	56,269
18	Bhalchandra Prasad Gulatkar	D Wing	D 1501	44,268
19	Kosum Vinodkumar Bhatia	D Wing	D 1502	4,34,888
20	Artata Jain	D Wing	D 1503	4,34,440
21	Nikhil Gajab Bagre	D Wing	D 1504	89,977
22	Nandkishore Kandi	D Wing	D 1505	59,974
23	Sunil Achipalya	D Wing	D 1701	89,655
24	Rahul Magi	D Wing	D 1702	4,34,552
25	Prasant Andrew Sarraf	D Wing	D 1703	4,36,704
26	Himavshi Abhijeet Zogade	D Wing	D 1704	73,249
27	Avinash Patrak	D Wing	D 1705	84,665
28	Sarfuddin Fiovi	D Wing	D 1706	44,686
29	Amrikumar Suresh Singh	D Wing	D 1801	2,69,321
30	Saurabh Moondhra	D Wing	D 1802	4,66,269
31	Rajesh Kamat	D Wing	D 1805	83,812
32	Yashwantrao Gomodar Bangera	D Wing	D 1806	1,50,452
33	Jitendra Gadhvi	D Wing	D 201	47,716
34	Hitesh Kuradi	D Wing	D 302	28,597
35	Ashil V. Khusha	D Wing	D 303	57,894
36	Anjali Kumar Kedia	D Wing	D 304	57,814
37	Sonal Milind Mehta	D Wing	D 305	72,010
38	Yashesh Ashar	D Wing	D 306	49,577
39	Prakash Sargendra Devadiga	D Wing	D 501	46,824
40	Rajesh Chaitesh Pat	D Wing	D 502	84,868
41	Santosh Ghosh	D Wing	D 503	72,563
42	AXS Online Pvt. Ltd.	D Wing	D 504	73,556
43	Parimal P. Sethe	D Wing	D 505	73,299
44	Anil Shetty	D Wing	D 506	50,824
45	Kenneth Xavier D'Souza	D Wing	D 701	45,803
46	Udit Rajesh Singh	D Wing	D 702	92,420

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47	Anubha Gupta	D Wing	D 703	54,150
48	Pradeep Meghara	D Wing	D 706	49,808
49	Bharat K Rane	D Wing	D 901	2,63,264
50	Bakuldev Sanghal	D Wing	D 902	1,20,596
51	Samrat Romprakash Poddar	D Wing	D 903	46,480
52	Ganesh Kumar Jain	D Wing	D 904	39,576
53	Divya Sanghal	D Wing	D 905	1,10,104
54	Swati S. Dalvi	D Wing	D 906	7,841
55	Pappu Vijay Singh	Shop	D012	3,08,693
56	Mohd. Dawood	Shop	D014	2,96,163
57	Pooja Parag Raikar	Shop	D016	2,51,738
58	Irfana Tabassum	E Wing	E 101	95,970
59	Anurag Ashok Kumar Srivastava	E Wing	E 102	1,15,181
60	Sifra Victor Nagarkar	E Wing	E 103	1,06,625
61	Sudhakar Mishra	E Wing	E 1101	1,49,087
62	Rinky Figueredo	E Wing	E 1102	1,31,440
63	Namita S Upadhye	E Wing	E 1103	2,30,950
64	Dilekumar G. Jain	E Wing	E 1104	2,30,850
65	Shweta Sanjay Mathra	E Wing	E 1301	2,20,117
66	Ashok Sand	E Wing	E 1302	79,688
67	Tushar Desai	E Wing	E 1303	1,29,628
68	Soyeb R. Rangwala	E Wing	E 1304	2,08,980
69	Jaymohan Kojriwal	E Wing	E 1305	1,19,267
70	Thomas George	E Wing	E 1501	1,13,474
71	Jane Thomas	E Wing	E 1502	1,13,199
72	Narendra Amar Singh	E Wing	E 1503	1,24,032
73	Alka Ashwin Lodha	E Wing	E 1504	4,37,152
74	Santadevi Chandgotia	E Wing	E 1505	1,42,358
75	Ravi R. Kaduskar	E Wing	E 1701	2,41,758
76	Rahim Basheer Abdul	E Wing	E 1702	2,47,577
77	Haseeb Husain Chohan	E Wing	E 1703	1,59,496
78	Eugene Daphne Chohan	E Wing	E 1704	4,10,987
79	Solima Sherluck	E Wing	E 1801	1,31,790
80	Hadi Mohd Husain Chohan	E Wing	E 1803	2,05,519
81	Robert Almeida	E Wing	E 1804	4,53,957
82	Ketan B. Shah M/F	F Wing	F 301	22,258
83	Rajiv Gupta	A Wing	A 1003	73,360
84	Venugopal Ramaswamy Coontoor	A Wing	A 101	26,516
85	Akash Dnyaneshwar Raut	A Wing	A 102	36,608
86	Shrance Sethi	A Wing	A 103	58,944
87	Ramesh Jaggi	A Wing	A 104	4,77,392
88	Harsha N. Agarwal	A Wing	A 1101	37,019
89	Harsha N. Agarwal	A Wing	A 1102	37,019
90	Amr Manohar Lahaia	A Wing	A 1103	4,52,253
91	Sangya B. Khanna	A Wing	A 1301	51,580
92	Giridi Gopinath Nair	A Wing	A 1302	51,579
93	Ratik Bhagwan Mhatre	A Wing	A 1303	4,65,080
94	Divyen Sampat	A Wing	A 1304	47,579
95	Ashok Chandra Patel	A Wing	A 1501	41,800
96	Nayraze Godrej Wadia	A Wing	A 1502	56,908
97	Satish Rathi	A Wing	A 1503	4,64,920
98	Dinarmendes Vallabhadas Ubeah	A Wing	A 1702	2,41,211
99	Tajal Dharmendra Udesai	A Wing	A 1703	5,06,278
100	Rishi R. Saraf	A Wing	A 1704	4,48,525
101	Adi Rishi Radwala	A Wing	A 1802	54,025

102	Saishu Bhatra	A Wing	A 1803	4,79,634
102	Dhurat Yashwant - Banogjar	A Wing	A 301	51,121
104	Joshino Rebelio	A Wing	A 302	38,305
105	Majid Khan	A Wing	A 303	42,312
106	Rashmi Jain	A Wing	A 501	45,504
107	Shirad Hansh Goswami	A Wing	A 502	50,092
108	Suryoot S. Jambaa	A Wing	A 504	2,37,615
109	Aydhesh Ratra Singh	A Wing	A 701	54,093
110	Deepak Bruno Almeida	A Wing	A 702	3,28,254
111	Ritu Sharma	A Wing	A 704	69,659
112	PREMIER HOSPITALS PRIVATE LIMITED	A Wing	A 904	4,70,653
113	Ravindra Dhanan Kambale	B Wing	B 101	23,824
114	Sudhir Anant Choudhari	B Wing	B 102	49,461
115	Abkingsh Solanki	B Wing	B 103	39,252
116	Anuja Anil Datar	B Wing	B 1102	49,828
117	Ravi Sen	B Wing	B 1103	44,116
118	Mahesh Banjan	B Wing	B 1502	49,763
119	Harold Victor Osouza	B Wing	B 1701	42,088
120	Mustafa Fakhruddin Netterwala	B Wing	B 1702	37,208
121	Yogesh Radhakrishnan Nair	B Wing	B 1703	2,38,492
122	Hresh Shashikant Tolwar	B Wing	B 202	1,38,111
123	Nasurullah Iqbalin	B Wing	B 302	49,409
124	Madhura Joshi	B Wing	B 403	14,045
125	Azhar Sayyed Adam	B Wing	B 501	52,122
126	Prata Singh	B Wing	B 502	47,181
127	Droopadi Manohar Punjabi	B Wing	B 503	54,626
128	Aranya Vijay Karandikar	B Wing	B 701	43,814
129	Stanley Raj Varghese	B Wing	B 703	39,559
130	Ghanti Karanika	B Wing	B 901	35,296
131	Prakash Mehta	B Wing	B 902	34,928
132	Meghana R. Patwardhan	B Wing	B 903	34,928
133	Dinesh Jain	C Wing	C 104	40,849
134	Monika Singh	C Wing	C 105	49,611
135	Akhilish Chandra Srivastava	C Wing	C 1104	52,820
136	Jagdeep Harishchandra Davari	C Wing	C 1204	45,811
137	Sunita Sandeep Lodha	C Wing	C 1301	80,841
138	Tajali Mohammed Saif Hashmi	C Wing	C 1303	4,53,436
139	VijayKumar Varma	C Wing	C 1304	1,74,771
140	Hema's Pliwa Prakash Keer	C Wing	C 1305	51,378
141	Samrat Durgamutta Telang	C Wing	C 1405	43,838
142	Sanjay Agrawal	C Wing	C 1501	94,143
143	Lata Krishnakumar Bang	C Wing	C 1503	4,55,675
144	Ashya Coombawala	C Wing	C 1504	1,09,602
145	Harsha N. Agarwal	C Wing	C 1701	2,49,760
146	Harsha N. Agarwal	C Wing	C 1702	1,55,843
147	Savit Datta	C Wing	C 1703	4,31,075
148	Sonal Mehra	C Wing	C 1704	45,189
149	Manju Singh	C Wing	C 1705	2,91,497
150	Arnoita Mahendra Bangur	C Wing	C 1804	38,207
151	Mohammed H. Hameedata	C Wing	C 1805	1,19,953
152	Simul Pareg Rajkar	C Wing	C 301	2,07,300
153	Saket Kumar Jha	C Wing	C 303	53,057
154	Asharood Hali	C Wing	C 304	50,751
155	Maninder Singh	C Wing	C 305	50,525
156	Sourabh Tiwari	C Wing	C 501	91,611

157	Sandeep Khemka	C Wing	C 502	87,204
158	Anand Khatiwala	C Wing	C 504	36,052
159	Jatin B. Chawda	C Wing	C 505	52,715
160	Bhurat Nagda	C Wing	C 701	85,705
161	Veda Iyer	C Wing	C 703	18,944
162	Naseem Siddique Sadiq Ali	C Wing	C 704	52,389
163	Naseem Siddique Sadiq Ali	C Wing	C 705	52,343
164	Marla Rodrigues	C Wing	C 901	4,96,197
165	Rupka Ramani	C Wing	C 904	47,639
166	Sunroop Shetty	C Wing	C 905	48,107
167	Venkata Ravi Sekhar Karlam	E Wing	E 302	1,19,597
168	Archi Tiwar	E Wing	E 303	1,20,293
169	Roshni Anirish Agarwal	E Wing	E 304	1,84,143
170	Jyotiram Tyagi	E Wing	E 501	75,036
171	Vaisali Shanone	E Wing	E 502	1,11,651
172	Sonal Milind Menta	E Wing	E 504	1,94,415
173	Anita Gupta	E Wing	E 505	1,23,952
174	Manish Sethia	E Wing	E 701	73,807
175	Jaya Kataria	E Wing	E 702	73,807
176	Shahid Khalid Mohammad Ibrahim	E Wing	E 703	1,21,973
177	Manoj Kumar Vats	E Wing	E 704	1,36,154
178	Vineet Sekhsaria	E Wing	E 901	74,830
179	Yogesh Purushottam Modras	E Wing	E 902	1,15,499
180	Aarz Alifuddin Kapadia	E Wing	E 903	1,53,305
181	Bafiq Hamza Jasnalk	E Wing	E 904	1,65,126
182	Prati Singh	Shop	E018	1,86,866
183	Sandeep Kishan Jain	Shop	E020	97,879
184	Ekar Qureshi	F Wing	F 101	50,014
185	Manul Ashokkumar Shah	F Wing	F 103	77,505
186	Abhijit Ghose	F Wing	F 1101	63,164
187	Syed Wajid Ali Shah Kadri	F Wing	F 1201	1,64,140
188	Prashish More	F Wing	F 1301	67,749
189	Uma Jhurjhurwala	F Wing	F 1302	51,782
190	Yogesh Kumar	F Wing	F 1303	4,05,380
191	Sarita Rankaj Mishra	F Wing	F 1502	2,10,629
192	Ranjan Shetty	F Wing	F 1503	81,639
193	Mohammed Sirajuddin Ajmal	F Wing	F 1701	61,954
194	Rajavi Akash Trust	F Wing	F 1702	34,281
195	Rohini S Mendel	F Wing	F 1703	1,95,315
196	Arunpreet Kaur Nag	F Wing	F 1802	1,84,594
197	Mustafa Kapadia	F Wing	F 301	58,880
198	Bhaskar Nayrital Sheth	F Wing	F 302	1,63,307
199	Nishi Varma	F Wing	F 303	87,630
200	Ranju Singh	F Wing	F 301	1,00,878
201	Jagmohan Kojwal	F Wing	F 302	49,827
202	Rahul Singh	F Wing	F 303	87,559
203	Trust Rupesh Tamale	F Wing	F 701	59,792
204	Rakesh Suresh Lalmardani	F Wing	F 702	4,45,285
205	Nitesh Babakultra Rai	F Wing	F 703	79,674
206	Piera Singh	F Wing	F 901	65,424
207	Secun Barwanji Kyamsana	F Wing	F 902	1,67,090
208	Whitchantra D. Deshpande	Shop	F022	1,57,513
209	Abhishek Sahasraaj Shree	G Wing	G 107	77,907
210	Vasanti P Shetty	G Wing	G 103	2,27,692
211	Rohini Alok Kelkar	G Wing	G 104	1,18,555

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212	Vibeesh Kravindakshin	C Wing	G 105	1,96,858
213	Vivek Nandlal Mistry	E Wing	G 1102	65,387
214	Yashesh Astra	G Wing	G 1103	1,14,432
215	Jyoti A. Kojrewal	G Wing	G 1104	1,32,134
216	Jagmohan Kejriwal	G Wing	G 1105	1,20,408
217	Deepak Choudhary	G Wing	G 1301	1,37,050
218	Seema Rakesh Saraf	G Wing	G 1302	79,055
219	Neelgati Rakesh Saraf	G Wing	G 1303	79,688
220	Muni Krishnan Iyer	G Wing	G 1304	80,858
221	Jagmohan Kejriwal	G Wing	G 1305	1,20,408
222	Gaurav Gurur	G Wing	G 1401	2,53,388
223	Smiti Ramdash Lachwari	G Wing	G 1405	3,54,950
224	Rufus Dalva	G Wing	G 1501	4,01,302
225	Pranish Retroker Kantak	G Wing	G 1503	1,64,761
226	Carlos Joaquim Dias	G Wing	G 1504	2,37,888
227	Geeta Manojkumar Mishra	G Wing	G 1601	3,86,185
228	Vikim Shembu Shetty	G Wing	G 1701	3,10,411
229	Balkrishna Rathskar Shetty	G Wing	G 1702	1,28,356
230	Mahesh R. Sharma	G Wing	G 1703	54,906
231	Dinesh Hemrajat Pal	G Wing	G 1704	1,95,626
232	Sheeh Sampat Damani	G Wing	G 1705	3,80,935
233	Madhavi Sumit Trust	G Wing	G 1805	1,16,824
234	Zahtar Hussain Khan	G Wing	G 303	2,15,108
235	Vikram Arun Mesurkar	G Wing	G 304	1,22,135
236	Moralil Pralishesh Sheth	G Wing	G 502	1,34,481
237	Dindu Bhairam Chokal	G Wing	G 503	98,129
238	Shweta Kale	G Wing	G 504	1,18,377
239	Ivan Louis Fernandes	G Wing	G 505	4,06,281
240	Rajesh Lachwari	G Wing	G 701	1,82,583
241	Anata Himesh Raval	G Wing	G 702	1,75,107
242	Mohit Himesh Raval	G Wing	G 703	77,094
243	Darshan Ramosh Hingu	G Wing	G 704	74,391
244	Ashok Suvarte	G Wing	G 705	1,24,588
245	Kepil Reonata	G Wing	G 901	1,16,652
246	Tarun Poojary	G Wing	G 903	78,512
247	Chittaman Mahadeo Pawar	A Wing	A 801	3,10,973
248	Trupti Lakshmi Gore	C Wing	C 103	4,16,333
249	Divyeshi Pal	D Wing	D 103	4,58,914
250	Albert Gracious Varg	E Wing	E 1708	4,21,588
251	Rudhral Jagalukwaji	F Wing	F 003	4,34,959
252	Divyeshi H. Wadhwan	F Wing	E 104	4,26,239
253	Abhinav Kumar	G Wing	G 101	4,01,331
254	Sumi Ramdash Lachwari	G Wing	G 802	2,37,722
255	Thomas Chris Mathew	G Wing	G 1503	2,29,792
256	Vinay Ganapati Talwar	G Wing	G 1402	2,78,979
	Total amount of ITC to be passed on (Amount in Rs.)			4,00,82,024

ANNEXURE-B

LIST OF HOMEBUYERS OF THE PROJECT "KANAKIA SEVENS"

**WHERE M/S NEW MONARCH BUILDERS & CONTRACTORS HAS TO PASS ON THE ITC BENEFIT
TO ELIGIBLE FLAT/SHOP BUYERS**

S No	Name of Customer	Unit No	Wing	Amount of ITC Benefit to be passed on (Amount in Rs.)
1	Jehina Drouha & Micky Rosario	A/0501	A Wing	15,550
2	Deepik Raj Drouza	A/0502	A Wing	2,19,042
3	Batki Jaggi	A/0604	A Wing	4,77,392
4	Sunila Sanjit Rao & Nityamukta Banerjee	A/1202	A Wing	39,004
5	Radhakrishnan & Ashwini Parvathkar	A/1503	A Wing	4,07,276
6	Smita Y Dango & Yashwant N Dango	A/1604	A Wing	4,63,495
7	Randhavar Laxi Dazal	A/1804	A Wing	1,98,140
8	Dawood Siddoni	B/0303	B Wing	51,272
9	Purth & Anil Thakkar	B/0401	B Wing	2,35,298
10	Kalinder Saur Oberoi	B/1001	B Wing	2,58,822
11	Ravshan Babrigies	B/1002	B Wing	2,55,130
12	Yashant & Pooja Sharma	C/0401	C Wing	18,030
13	Jyotsna H Saini & Suresha Sulkani	C/0404	C Wing	22,822
14	Mihiraa, Adhar & Fotensia Luktandwala	C/0405	C Wing	22,467
15	Fazid Ahmed Ansari	C/0605	C Wing	28,877
16	Prasad & Smita Dhimal	C/0802	C Wing	87,211
17	Sudhakar & Shrinam Shenoy	C/0803	C Wing	60,200
18	Rajesh Marina Aulaya	C/0902	C Wing	1,96,480
19	Sanjay Goyal	C/1002	C Wing	132
20	Sonjay Goyal	C/1003	C Wing	19,094
21	Banshi Nayak Jodhi	C/1101	C Wing	42,790
22	Indu Hanish Doda	C/1105	C Wing	20,888
23	Chetan Ravish Doda	C/1201	C Wing	57,186
24	Virendra & Manubhai & Shauk Doda	C/1205	C Wing	26,137
25	Chetan Bahadur Singh Patwal	C/1405	C Wing	2,64,320
26	Rutuja Anil Ambekar	C/1801	C Wing	39,428
27	Priya, Sushasin, Sarika Anil	C/1803	C Wing	4,96,781
28	Ishta Mitra & Prantab Bhownick	D/0307	D Wing	38,148
29	Arvind Raichad	D/0401	D Wing	2,61,512
30	Susmita & Yashesh Rai	D/0403	D Wing	26,959
31	Karnesh & Shresh Rai	D/0804	D Wing	35,349
32	Mahesh Parmdeo Bani	D/0405	D Wing	31,090
33	Akhila Krishna Gurukul	D/0604	D Wing	30,522
34	Manisha V Ranwani	D/0802	D Wing	31,219
35	Suree Shroff	D/1001	D Wing	18,907
36	Rajesh Nigpal	D/1005	D Wing	8,438
37	Satyabhama & Praveen Chandra Sahoo	D/1403	D Wing	4,12,724
38	Usha Nityansoni & Sameer Gouda	D/1502	D Wing	4,78,680
39	Vandana Virendra Jain	D/1603	D Wing	4,34,440
40	Meksha & Snehalini Sasthiov	D/1606	D Wing	20,916
41	Amir Aalam	E/0401	E Wing	1,07,381
42	Sagar Rajendra Nalk	E/0402	E Wing	43,670

43	Divosh B Sharma	E/0404	E Wing	74,789
44	Kajalree & Rajesh Kutak	E/0504	E Wing	23,789
45	Rajesh & Anshree Katak	E/0505	E Wing	13,216
46	Bharat H Doshi	E/0705	E Wing	3,70,896
47	Praveen S Khan	F/0505	E Wing	1,40,924
48	Kuldip Jagshi Geda	E/1001	E Wing	6,241
49	Dileepi Jal Kumar Pandey	F/1002	F Wing	1,19,074
50	KYS Pawan & Jaya Rajder	E/1202	E Wing	1,06,578
51	Nigin Sachin Trivukhe	E/1501	E Wing	85,292
52	Robert Almeida	E/1605	E Wing	4,65,028
53	Preraj Dinesh Bhutale	F/0602	F Wing	92,345
54	Shankant Mody Puj	F/1003	F Wing	18,476
55	Santosh Menon	F/1202	F Wing	3,77,377
56	Kaushal & Ranjana Tiwari	F/1301	F Wing	1,55,936
57	Prasad & Lata Kuchale	F/1801	F Wing	7,12,149
58	Sandhya Manoj Parbhate	G/0301	G wing	2,70,779
59	Hem Prakash Rai & Bharu Pratap	G/0302	G wing	2,04,086
60	Jatin & Jyoti Loharbhada	G/0402	G wing	2,23,979
61	Nalvi, Ross, Ronald, Paul Simon	G/0403	G wing	1,13,422
62	Parvina Das	G/0601	G wing	38,780
63	Tushar J Dandale	G/0604	G wing	8,381
64	Ashish, Suyash, Kavita, Maya, Savita Bhattachary	G/0605	G wing	4,01,170
65	Ani B Shah	G/1001	G wing	1,60,801
66	Vijay & Kamini Kanekar	G/1002	G wing	69,268
67	Abey & Nimika Thomas	G/1201	G wing	1,11,651
68	Ignesh Mehta	G/1203	G wing	77,639
69	Orinhou & Cydu Cardot	G/1204	G wing	90,167
70	Christopher Deyara	G/1804	G wing	75,245
71	Samah & Saham Khemra	G/1801	G wing	1,11,633
72	Balrajnina Ratanakar Shetty	G/1802	G wing	60,064
Total amount of ITC to be passed on (Amount in Rs.)				1,06,75,257