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

Case No.	56/2022
Date of Institution	31.08.2020
Date of Order	05.08.2022

In the matter of:

1. Sh. Ram Prakash Sharma & Ambika Sharma, A-163, Sarita Vihar, New Delhi-110076.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s Ramprastha Promoter & Developer Pvt. Ltd., Plot No 114, Sector-44, Gurugram-122002.

Respondent

Quorum:-

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

Present:-

1. The Applicant No. 1 in person.
2. Ms. Purvi (Advocate), Sh. B.K. Gupta and Sh. Ketan Jain (Advocate) for the Respondent.
3. Sh. Raminder Singh, Assistant Commissioner for the DGAP.

ORDER

1. The Present Report dated 28.08.2020, received on 31.08.2020 by this Authority, has been furnished by the Applicant No. 2 i.e. the Director General of Anti-Profiteering (DGAP), under Rule 129 (6) of the Central Goods & Services Tax (CGST) Rules, 2017. The brief facts of the present case are that an application dated 30.07.2018 filed by the Applicant No. 1 alleging profiteering by the Respondent in respect of purchase of Flat No. E-1302 in the Respondent's project "Rise", Ramprastha City, Sector-37D, Gurugram. The above Applicant No. 1 had alleged that the Respondent had not passed on the benefit of Input Tax Credit (ITC) to him by way of commensurate reduction in the price after implementation of GST w.e.f. 01.07.2017, in terms of Section 171 of the Central Goods and Services Tax Act, 2017. This complaint was examined by the Standing Committee on Anti-profiteering in its meeting held on 13.09.2019 and upon being prima facie satisfied that the Respondent had contravened the provisions of Section 171 of the CGST Act, 2017, forwarded the said application with its recommendation to the DGAP for detailed investigation under Rule 129 (1) of the CGST Rules, 2017. The above reference of the Standing Committee on Anti-profiteering had been received by the DGAP on 09.10.2019.

2. The DGAP has submitted his report to this Authority and has stated that:-

a. The Applicant submitted the following documents along with his application:

i. Email letter/complaint letter dated 30.07.2019 & 03.08.2019.

ii. Copies of the demand letters.

b. On receipt of the said reference from the Standing Committee on Anti-profiteering, notice dated 23.10.2019 was issued by the DGAP under Rule 129 of the CGST Rules, 2017, calling upon the Respondent to reply as to whether he admitted that the benefit of ITC had not been passed on to the Applicant No. 1 by way of commensurate reduction in price and if so, to suo-moto determine the quantum thereof and indicate the same in his reply to the notice as well as furnish all supporting documents. Vide the above mentioned notice, the Respondent was also given an opportunity from 30.10.2019 to 31.10.2019 to inspect the non-confidential evidences/information submitted by the Applicant No. 1, which the Respondent availed of. The Applicant No. 1 vide e-mail dated 20.08.2020 was also given an opportunity on 24.08.2020 to inspect the non-confidential documents/reply furnished by the Respondent, which was not availed of by him.

c. The last date prescribed under law for submission of the investigation report to this Authority expired on 08.04.2020. Further, in terms of Notification No. 35/2020 –Central Tax dated 03.04.2020 as amended vide Notification No. 55/2020 – Central Tax dated 27.06.2020, issued by the Central Board of Indirect Taxes and Customs under Section 168 (A) of the

CGST Act, 2017, where, any time limit for completion or compliance of any action, which falls during the period from the 20th day of March, 2020 to the 30th day of August, 2020, and where completion or compliance of such action has not been made within such time, then the time limit for completion or compliance of such action, shall be extended upto the 31st day of August,2020, including for the purpose for furnishing of any report under the provision of the Central Goods and Service Tax Act, 2017. Thus, in term of serial no. (i)(b) of Notification No. 35/2020- Central Tax dated 03.04.2020 as amended vide Notification No. 55/2020 – Central Tax dated 27.06.2020, the time limit for submission of the report stands extended up to 31.08.2020. However, the extension already granted as mentioned in this Authority's letter dated 24.03.2020 for further three months, in the present case stood extended by three months up to 30.11.2020.

d. The period covered by the current investigation was from 01.07.2017 to 30.09.2019.

e. The Respondent, in response to the notice dated 23.10.2019 and subsequent Reminders dated 06.11.2019, 31.12.2019, 10.01.2020, 17.03.2020, 08.05.2020, 19.05.2020 & 26.06.2020 and Summons dated 30.01.2020 & 29.07.2020, the Respondent has submitted the following documents/information/reply vide his letters/e-mails dated 31.10.2019, 06.12.2019, 06.01.2020, 20.01.2020, 12.02.2020, 15.05.2020, 09.06.2020, 07.08.2020, 17.08.2020 and 25.08.2020 and submitted the requisite documents.

f. The Respondent has sought confidentiality of all the documents/information submitted by him in terms of Rule 130 of the CGST Rules, 2017.

g. After careful examination of the subject application, the various replies of the Respondent and the documents/evidences on record, the main issues for determination were whether there was reduction in the rate of tax or benefit of ITC on the supply of construction service by the Respondent after implementation of GST w.e.f. 01.07.2017 and if so, whether the Respondent had passed on such benefit to the recipients, in terms of Section 171 of the CGST Act, 2017.

h. The Respondent had submitted copy of the sale agreement dated 12.02.2010, for the sale of Flat no. E-1302 to the Applicant No. 1 in his project "Rise", measuring 1765 square feet, at the basic sale price of Rs. 3795/- per square feet. The details of amounts and taxes paid by the Applicant to the Respondent, has been furnished by the DGAP in Table-'A' below:-

Table-'A' (Amount in Rs)

Unit Type		3 BHK
Flat No.		E-1302
RISE (RAMPRASTHA CITY)-TOWER-E		
Area(Sq. Ft)	1765	
Basic Price/Square feet	3795	6698175
Car Parking/ Square feet	300000	300000
EDC+ IDC Charges /Square feet	335	591275
Interest Free Maintenance Security(IFMS)/ Square feet	50	88250
PLC/ Square feet	100	176500
Total Cost		7854200

INSTALMENT PAYMENT PLAN			
S.No.	Linked Stage	Payment	Amount
1	On Booking	10% of Basic Sale Price	669818
2	Within 30 days of Booking	7.5% of Basic Sale Price	502363
3	Within 60 days of Booking	7.5% of Basic Sale Price	502363
4	On invoicing for start of construction	5% of Basic Sale Price+50% of EDC+IDC	630546
5	On invoicing for completion of foundation	5% of Basic Sale Price+50% of EDC+IDC	630546
6	On invoicing for completion of basement roof	5% of Basic Sale Price+50% cost of parking	484909
7	On invoicing for completion of 2nd floor roof slab	5% of Basic Sale Price+50% cost of parking	484909
8	On invoicing for completion of 4th floor roof slab	5% of Basic Sale Price+50% of PLC if	423159
9	On invoicing for completion of 6th floor roof slab	5% of Basic Sale Price+50% of PLC if	423159
10	On invoicing for completion of 8th floor roof slab	5% of Basic Sale Price	334909
11	On invoicing for completion of 10th floor roof slab	5% of Basic Sale Price	334909
12	On invoicing for completion of 12th floor roof slab	5% of Basic Sale Price	334909
13	On invoicing for completion of 14th floor roof slab	5% of Basic Sale Price	334909
14	On invoicing for completion of 16th floor roof slab	5% of Basic Sale Price	334909
15	On invoicing for completion of 17th floor roof slab	5% of Basic Sale Price	334909
16	On invoicing for completion of flooring and wall	5% of Basic Sale Price	334909
17	On invoicing for receipt of completion Certificate	5% of Basic Sale Price	334909
18	On invoicing for possession	5% of Basic Sale Price+IFMS	423159
	TOTAL		**7854200**

i. Another aspect to be borne in mind while determining profiteering was that 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) reads as *"Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building"*. Further, clause (b) of Paragraph 5 of Schedule II of the Central Goods and Services Tax Act, 2017 reads as*"(b) construction of a complex, building, civil structure*

or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier". Thus, the ITC pertaining to the residential units which were under construction but not sold was provisional ITC which might be required to be reversed by the Respondent, if such units remained unsold at the time of issue of the Completion Certificate, in terms of Section 17(2) & Section 17(3) of the CGST Act, 2017. Therefore, the ITC pertaining to the unsold units was outside the scope of the investigation and the Respondent was required to recalibrate the selling price of such units to be sold to the prospective buyers by considering the proportionate additional ITC available to them in the post-GST period.

j. The present case pertained to supply of construction service and the investigation was limited to one project i.e. "Rise" only, in which the Applicant No. 1 has booked his Unit No. E-1302.

k. Prior to 01.07.2017, i.e. before GST implementation, the Respondent was eligible to avail CENVAT credit of Service Tax paid on the input services and VAT paid on inputs only. However, no credit was available in respect of Central Excise Duty paid on inputs as per the CENVAT Credit Rules, 2004, which was in force at the material time. Further, post-GST, the Respondent could avail the ITC of GST paid on all the inputs and input services including the sub-contracts. That from the information submitted by the Respondent for the period April,

2016 to September, 2019, the details of the ITC availed by him, his total turnover from the project "Rise" and the ratio of ITC to the turnover during the pre-GST (April, 2016 to June, 2017) and post-GST (July, 2017 to September, 2019) periods, has been furnished by the DGAP in Table-'B' below:-

Table-'B' (Amount in Rs.)

S.No.	Particulars	April,2016 to June,2017(Pre-GST)	July,2017 to Sept. 2019 (Post-GST)
1	Credit of Service Tax Paid on Input Services (A)	23,96,369	
2	Input Tax Credit of VAT paid on purchase of Inputs (B)	1,73,756	
3	Total CENVAT/VAT/Input Tax Credit Available (C=A+B)	25,70,125	
4	Input Tax Credit of GST Availed (D)		174,94,431
5	Total Turnover from Residential Area (E)	115,04,598	376,64,656
6	Total Saleable Area (F)	5,86,370	5,86,370
7	Sold Area relevant to Turnover in Sq Ft. (G)	1,37,405	1,66,005
8	ITC proportionate to Sold Area (H= (C or D)* G/F)	6,02,261	49,52,782
9	**Ratio of Cenvat/Input Tax Credit to Turnover (I=H/E*100)**	5.23%	13.15%

l. As per Table-B above, the ITC as a percentage of the turnover that was available to the Respondent during the pre-GST period (April, 2016 to June, 2017) was 5.23 % and during the post-GST period (July, 2017 to September, 2019), it was 13.15%. This clearly confirmed that post-GST, the Respondent had been from additional ITC to the tune 7.92% [13.15% (-) 5.23 %] of the turnover.

m. The Central Government, on the recommendation of the GST Council, had levied 18% GST (effective rate was 12% in view of 1/3rd abatement on value) on construction service, vide Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017.

Accordingly, the profiteering has been examined by comparing the applicable tax rate and ITC available for the pre-GST period (April, 2016 to June, 2017) when Service Tax @ 4.5% with the post-GST period (July, 2017 to September, 2019) when the GST rate was 12% on construction service. On the basis of the figures contained in Table- 'B' above, the comparative figures of the ratio of ITC availed/available to the turnover in the pre and post GST periods, recalibrated base price and the excess collection (profiteering) during the post-GST period, has been tabulated by the DGAP in Table-'C' below:-

Table-'C' (Amount in Rs.)

S. No.	Particulars	Pre-GST		Post- GST
1	Period	A	April,2016to June,2017	July,2017 to Sept., 2019
2	Output tax rate (%)	B	4.50%	12.00%
3	Ratio of CENVAT/VAT/GST ITC to Total Turnover as per Table - B above (%)	C	5.23%	13.15%
4	Increase in ITC availed post-GST (%)	D	-	7.92%
5	**Analysis of Increase in input tax credit:**			
6	Total Basic Demand during July, 2017 to Sept, 2019	E		376,64,656
7	GST @12%	F= E*12%		45,19,759
8	Total demand	G= E+F		421,84,415
9	Recalibrated Basic Price	H=E*(1-D) or 92.08% of E		346,81,615
10	GST @12%	I=H*12%		41,61,794
11	Commensurate demand price	J=H + I		388,43,409
12	Excess Collection of Demand or Profiteered Amount	K=G - J		33,41,006

n. As per the Table-C, it was clear that the additional ITC of 7.92% of the turnover should have resulted in commensurate reduction in the basic price as well as cum-tax price. In terms of Section 171 of the CGST Act, 2017, the benefit of the additional ITC was required to be passed on to the recipients. In other words, by not reducing the pre-GST basic price by 7.92% on account of additional benefit of ITC and charging GST @ 12% on the pre-GST basic price, the Respondent appeared to have contravened the provisions of Section 171 of the of the CGST Act, 2017.

o. Having established the fact of profiteering, the next step was to quantify the same. On the basis of the aforesaid CENVAT/ITC availability in the pre and post-GST periods and the demands raised by the Respondent to the Applicant No. 1 and other home buyers towards the value of construction on which GST liability @ 12% was discharged by the Respondent during the period 01.07.2017 to 30.09.2019, the amount of benefit of ITC not passed on to the recipients or in other words, the profiteered amount came to Rs. **33,41,006** /- which included GST on the base profiteered amount of Rs. 29,83,041/-. The home buyer and unit no. wise break-up of this amount was given in **Annexure-16** of the DGAP's report dated 28.08.2020. This amount was inclusive of Rs 19,805/- (including GST on the base amount of Rs 17,683/-) which was the profiteered amount in respect of the Applicant No. 1, mentioned at serial no. 277 of Annexure-16.

p. The above computation of profiteering was with respect to 93 units from whom payments had been received by the Respondent during the post-GST period covered by the

investigation, i.e., 01.07.2017 to 30.09.2019 as mentioned in the home-buyers list. Whereas the Respondent had booked total 316 units as per the data submitted, in the pre-GST period, demands were raised from only 77 buyers who had booked the units, and the net total of demands raised from such units only has been taken into consideration. Similarly, in the post-GST period, demands were raised from 93 buyers who had booked the units and the net total of demands raised from such units only have been taken into consideration. If the ITC in respect of these 223 (316-93) units was taken into account to calculate profiteering in respect of 93 units where payments had been demanded or received in the post-GST period, the ITC as a percentage of turnovers would be distorted and erroneous. Therefore, the benefit of ITC in respect of these 223 (316-93) units should be calculated when the demand was raised from such units by taking into account the proportionate ITC in respect of such units.

q. Post-GST, the benefit of additional ITC of 7.92% of the turnover accrued to the Respondent for the project "Rise". This benefit was required to be passed on to the recipients but this was not done. Section 171 of the CGST Act, 2017 appeared to have been contravened by the Respondent, inasmuch as the additional benefit of ITC @ 7.92 % of the base price received by the Respondent during the period 01.07.2017 to 30.09.2019, has not been passed on by the Respondent to 93 recipients including the Applicant No. 1. These recipients are identifiable as per the documents provided by the Respondent, giving the names and addresses along with Unit No. allotted to such recipients. Therefore, the

total additional amount of Rs. **33,41,006 /- (Thirty-Three Lakh, Forty-one Thousand, Three and Six only)** was required to be returned to the Applicant No. 1 and other such eligible recipients. As observed earlier, the Respondent had supplied construction services in the State of Haryana only and the present investigation covers the period from 01.07.2017 to 30.09.2019. Profiteering, if any, for the period post October, 2019, has not been examined as the exact quantum of ITC that will be available to the Respondent in future could not be determined at this stage.

r. The provisions of Section 171(1) of the CGST Act, 2017 requiring 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"*, had been contravened by the Respondent in the present case. Further, in this Report, any reference to the CGST Act, 2017 and CGST Rules, 2017, would also include a reference to the corresponding provisions under the relevant SGST/UTGST/IGST Acts and Rules.

3. The above Report of the DGAP was considered by this Authority and it was decided to allow Respondent and the Applicant No. 1 to file their consolidated written submissions against the Report of the DGAP. Accordingly, notice dated 07.09.2020 was issued to Respondent and the Applicant No. 1 to explain why the Report dated 28.08.2020 should not be accepted and to file their consolidated written submissions against the Report of the DGAP. The Respondent filed his submissions dated 18.09.2020 in respect of the Report of the DGAP and has stated:-

a. **That the proceedings initiated by the Standing Committee on the basis of the complaint dated 30.07.2018 by Shri Ram Prakash Sharma and Ambika Sharma is barred by limitation:-**

i. The written application/complaint was received by the Standing Committee on 30.07.2018. However, the reference was made by the Standing Committee on 09.10.2019, which was far beyond the time period prescribed under Rule 128 of the CGST Rules. Therefore, it was submitted that the reference made by the Standing Committee to the DGAP is bad in law. Hence, the initiation of proceedings by DGAP on the basis of reference, which itself was barred by limitation as prescribed under the law was arbitrary, unreasonable and bad in law. Hence, the whole proceedings were wholly without jurisdiction.

b. **In absence of any method/ manner/ basis for defining profiteering or for determining the manner in which the amount is to be computed, the provisions of section 171 become unenforceable:-**

i. That Section 171 did not provide any methodology/procedure according to which the Authority should examine whether 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.

ii. Further, Rule 126 of the CGST Rules, which had been enacted in exercise of delegated power of legislation, also did not provide the methodology and procedure for

determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of ITC has been passed on by the registered person to the recipient by way of commensurate reduction in prices. However, Rule 126 further delegated the said function to this Authority in complete violation of the principles of law that *delegatee* could not further sub-delegate the essential legislative functions.

iii. The "procedure and methodology" issued by this Authority under Rule 126 of the CGST Rules also nowhere provided the methodology for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of ITC has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

iv. That even though as per clause 1(ii) of the said 'Procedure and Methodology' it would come into force with effect from the issuance of Notification by this Authority, no such Notification has been issued in the Official Gazette of India and as such, the same was not enforceable till date.

v. That it was trite law that for a taxing statute, to provide a mechanism for computation of value on which tax was to be paid. It has been repeatedly held that in case the provisions of law did not provide for complete machinery provision, with respect to levy, the levy itself would fail. The Respondent has also placed reliance to the following cases:-

- B.C. Srinivasa Setty [1981(128) ITR 294 (SC),

- National Mineral Development Corporation 2004 (6) SCC 281.
- Govind Saran Ganga Saran v. Commissioner of Sales Tax 1985 (60) STC 1 (SC).
- Mathuram Agrawal v. State of Madhya Pradesh, (1999) 8 SCC 667.

c. **That the entire proceeding of anti-profiteering is pre-mature, wrong, unreasonable and bad in law:-**

i. That computation of the accurate quantum of ITC benefit which was required to be passed on to the recipient could only be computed when the completion certificate was issued and ITC in respect of unsold units was reversed. It is pertinent to mention here that the law was ever changing and there was always a possibility in case of long-term contracts that law might change over the period of time.

ii. That the Central Government vide its Notification no. 03/2019-Central tax rate dated 29.03.2019 has further restricted the Respondent to not take ITC with respect to new projects with effect from 01.04.2019, and also has imposed condition that payment would have to be made from electronic cash ledger only. Further, only with respect to the projects already commenced before 01.04.2019 and in which the Respondent had opted for continuation of old scheme, the ITC available in his electronic ledger could be utilised. Thus, the latest amendment brought vide Notification 03/2019-Central Tax Rate dated 29.02.2019, has severely restricted the use of credit. Thus, further eclipsing the utilisation of

ITC, and hence could not be considered to be benefit of ITC. Therefore, even till today there was no certainty as to what would happen to the remaining ITC and hence, the same could not be said to be "benefit of ITC" as per Section 171 of the CGST Act.

iii. **Unutilised ITC:-** That the Respondent herein was having huge piles of unutilised ITC, which was only increasing with each passing month. The Respondent foresee that he would not be able to utilize the said ITC, and hence the ITC earned during the GST period would not accrue to him as benefit and would ultimately be required to be reversed.

d. That the complainants had, vide email dated 06th August 2018 had withdrawn the complaint by sending it to this authority. Hence the withdrawal was done long before even the reference made by the Standing Committee which was stated to have been forwarded only on 09.10.2019. The Respondent has vide its letter dated 06.12.2019 submitted before the DGAP that the complainant has withdrawn its complaint and therefore the proceedings were liable to be dropped.

e. The Respondent has also placed reliance on the case of **Dhakeswari Cotton Mills Ltd. v. Commissioner of Income Tax, West Bengal AIR 1955 SC 65.**

f. Further, even their conclusions were not furnished to the Respondent, and hence the Respondent has no means to ascertain whether the said Standing Committee/ Screening Committee ever applied their mind and whether there was any prima facie evidence of profiteering against the Respondent. That the said satisfaction on part of the Standing Committee/

Screening Committee were jurisdictional requirements and in absence thereof the proceedings were wholly without jurisdiction and hence liable to be dropped forthwith.

g. The anti-profiteering authority was not constituted in accordance with the law laid down by the apex court in several cases. Hence the proceedings were *non est* on that ground itself. There was neither any judicial member, nor any technical member expert of the field in question.

h. **The procedure and methodology adopted by the DGAP is wrong, arbitrary, unreasonable, without authority of law and ultra vires the Article 14 and 19 of the Constitution of India:-**

   i. That the procedure and methodology adopted by DGAP was completely wrong, arbitrary, unreasonable and without authority of law. The DGAP has proceeded to determine the percentage of benefit i.e. 7.92% on the basis of his self-designed methodology. The computation method was neither provided in the Act nor in the Rules, and same had been adopted by the DGAP unilaterally and according to its own whims and fancies. Thus, the report has been made against the principles of law laid down in plethora of judgments that computation machinery has to be provided in law and in absence of it, no levy could be made.

   ii. That in the pre-GST regime, ITC in respect of VAT and Service Tax were available to the Respondent and only ITC with respect to Excise Duty was not available. Therefore, in the post GST regime, no profiteering

could arise on this count, whereas the DGAP report has not considered this aspect in its report.

iii. Further, it is submitted that the DGAP has considered the entire ITC as benefit under the GST regime for the purpose of computing the profiteering amount, which was completely wrong, incorrect, and arbitrary. Reference in this regard was invited to the case of **M/s Commercial Steel Engineering Corporation v. State of Bihar and Others [2019] 57 DSTC 326 (Patna),** wherein the Hon'ble High Court was faced with one of the issues *" Whether or not the reflection of Rs.42 lacs approximately in the electronic credit ledger of the petitioner is a confirmation of availment or his entitlement for utilization."* The Hon'ble High court held that *"...an availment of credit is a positive act and unless carried out for reducing any tax liability by its reflection in the return filed for any financial year, it cannot be a case of either availment or utilisation..."*

iv. That the error in the method was writ large by the following illustration. That the Respondent appointed contractors to perform work for them. In the erstwhile regime they used to charge Service Tax and GST which was around 10% of the bill, and the Respondent used to reimburse the same to them. Post GST, the GST rate on contractors' activity has been raised to 18%, and therefore now the Respondent pays to them 18% over and above their bill amount. Thus, there was an increase of approximately 8% in the rate of tax payable in respect of the contractors. Thus, increase of

rate which was being borne by the Respondent was being treated as increase in ITC and therefore profiteering, which was *ex facie* incorrect. It was pertinent to mention that during the period July 2017 to September 2019, substantial amount was paid by the Respondent to his contractors executing the works at the Project Rise, which was under investigation. Hence, ITC availed on GST paid to the said contractors, could not be considered to be benefit, rather as mentioned above, substantial portion of the said increased ITC was relatable to increase in rate of GST.

v. Another reason why this basis was wholly incorrect was that there was no uniformity in the ratio of billed amount and the expenditure incurred. While in pre-GST regime, the billing was far higher, the construction was not carried out commensurate to the same. The speed of the work increased tremendously in post GST regime, and the construction cost incurred after the GST regime was far higher in proportion to the billings in that period, as compared to the pre GST period taken by the DGAP as the basis. This could be seen as below:

<u>During the pre-GST period taken by DGAP.</u>

Construction Cost: Rs. 2.11 Cr.

Receipts: Rs. 1.15 Cr

Ratio of construction cost to receipts – 1.8 times

<u>During the post GST period taken by DGAP.</u>

Construction Cost: Rs. 13.31 Cr.

Receipts: Rs. 3.76 Cr

Ratio of construction cost to receipts – 3.54 times.

When, the construction cost incurred by the Respondent has substantially increased, it was quite natural that the ITC relatable to the said cost has seen sharp surge.

vi. That the benefit of ITC could be said to be have accrued only when the ITC has been utilised. From the figures mentioned herein below which had been calculated on totals basis, the Respondent had a total closing balance of Rs. 16.56 Cr as on 30.09.2019. It was also evident on a bare perusal of the below mentioned data that the ITC after introduction of GST was 29.79 Cr., out of which only 21.58 Cr. has been utilised in the GST regime. Thus, remaining being unutilised could not be said to have been "benefit" under Section 171 of the CGST Act. The Respondent has furnished the details of ITC in the below mentioned Table:-

Description	**Amount (in Rs.)**
Details of opening balance as per Tran 1	8,35,62,037/-
Details of ITC availed in GST regime till 30.09.2019	29,79,37,277/-
Details of ITC utilised during GST regime till 30.09.2019	21,58,66,461/-
Closing balance till 30.09.2019	16,56,32,853/-

The Respondent has also enclosed copy of the electronic credit ledger showing closing balance of ITC of Rs. 16,56,32,853/-.

vii. That the above-mentioned figures have only been taken upto 30.09.2019 because DGAP has taken the period for computation till 30.09.2019. It was submitted that the figures of unutilised ITC till January, 20 has only inflated. The Respondent has total closing balance of ITC as on 31.01.2020 as Rs. 18.07 Cr. To illustrate, during the period 01.01.2019 to 31.01.2020, the Respondent has taken credit of Rs. 21.99 Cr. and has utilised Rs. 12.12 Cr. This showed that the Respondent had not been able to completely avail/utilise the credit. To tabulate the figures:-

Description	Amount
Details of ITC availed from 01.01.2019 till 31.01.2020	Rs. 21,99,98,791
Details of ITC utilised during from 01.01.2019 till 31.01.2020	Rs. 12,12,21,168
Closing balance till 31.01.2020	Rs. 18,07,77,935

viii. Thus, the ITC was increasing month by month, and over the last 13 months i.e. from 01.01.2019 to 31.01.2020, the ITC availed has exceeded the ITC utilised by around 9.90 Cr, taking the total closing

balance of ITC as on 31.01.2020 as Rs. 18.07 Cr. and which was very unlikely to be utilised.

ix. That the Respondent has total unutilised ITC of Rs. 18,41,19,856/- as on 31.07.2020. He has also enclosed copy of electronic credit ledger reflecting unutilised credit of Rs. 18,41,19,856/- as Annexure 4. These figures have been provided on an overall GST registration basis, but the purpose was to demonstrate that the ITC being taken by the Respondent was not being utilized, and it was quite likely that ultimately the same would have to be reversed.

x. Furthermore, DGAP has not given any opportunity to the Respondent to either controvert or respond to the methodology adopted by the DGAP for determining profiteering. In fact, the DGAP never put across to the Respondent as what should be the method for computation of profiteering.

i. That the Respondent had already passed on benefit of Rs. 17,37,958/- till date. Copy of excel sheet containing unit wise List with details of amount of benefit passed on to the buyers till date was attached as Annexure-5.

4. The above submissions of the Respondent have been sent to the DGAP to file his clarifications under Rule 133(2A) of the CGST Rules, 2017. The DGAP vide his Supplementary Report dated 16.10.2020 has filed his clarifications under Rule 133(2A) of the Rules and has stated:-

a. **That the proceedings initiated by the Standing Committee on the basis of the complaint dated 30.07.2018 by Shri**

Ram Prakash Sharma and Ambika Sharma is barred by limitation:-

i. Para 5 to 10:- The duties of the Standing Committee are clearly defined under Rule 128 and 129 of the CGST Rules, 2017. Under Rule 128 of the CGST Rules, 2017, the Standing Committee, within a period of two months from the ***date of the receipt*** of a written application or within such extended period not exceeding a further period of one month for reasons to be recorded in writing as may be allowed by the Authority, from an interested party or from a Commissioner or any other person, examines the accuracy and adequacy of the evidence provided in the application to determine whether there is *prima-facie* evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of ITC has not been passed on to the recipient by way of commensurate reduction in prices.

ii. Further, under Rule 129 of the CGST Rules, 2017, in the matters, where the Standing Committee is satisfied that there is a *prima-facie* evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of ITC to the recipient by way of commensurate reduction in prices, it refers the matter to the DGAP for a detailed investigation.

iii. From the above, it may be inferred that the time period of two months is to be considered from the date of

receipt of the application and not from the date of application. In the instant case, the complaint dated 30.07.2018 was addressed to this Authority. Therefore, the date of receipt of the complaint by the Standing Committee may be ascertained from the Standing Committee. Furthermore, it is pertinent to mention here that for the time constraint of two or three (as applicable) months, the date on which Standing Committee makes reference to the DGAP is to be considered and not the date on which the reference from Standing Committee is received by the DGAP. Thus, the date on which the said reference was made by the Standing Committee to the DGAP may be obtained from the Standing Committee. It is clarified that 09.10.2019 is the date on which the said reference was received by the DGAP. However, under the provisions of Section 171 of the CGST Act, 2017 read with Rule 129 of the CGST Rules, 2017, the mandate of DGAP is to conduct the investigation as per the directions of the Standing Committee on Anti-profiteering and to submit the report on its findings to this Authority under Rule 129(6) of CGST Rules, 2017. Further clarification may be sought from the Standing Committee on Anti-profiteering.

b. **That the entire proceeding of anti-profiteering is pre-mature, wrong, unreasonable and bad in law:-**

i. Para 20:- The Respondent's contention was not correct as the profiteering, if any, had to be established at a given point of time, in terms of Rule 129(6) of the

CGST Rules, 2017. Furthermore, the benefit of the ITC was accruing to the Respondent after GST implementation which the Respondent was utilizing on regular intervals while discharging his GST liabilities. It was pertinent to mention here that the Respondent was charging GST from his customers regularly (on demands raised during GST regime) and ITC benefit was being enjoyed by him only whereas the benefit of ITC must be passed on to his customers on each and every consideration demanded (GST regime) by the Respondent in terms of Section 171 of the CGST Act, 2017. The benefit of ITC in excess or less could be adjusted at the time of final demand when the project gets completed. But without doing so, the Respondent was enjoying the benefit of ITC solely keeping his customers away from the same. Therefore, the claim of the Respondent was not acceptable.

ii. Para 21 & 22:- The contention of the Respondent was incorrect. There could be some changes in the law which were generally being made in the public interest by the Government. But whenever such changes were being made, the law provided a legal remedy in such cases for ease of the trade/tax payers. However, in the instant case, the project of the Respondent commenced before 01.04.2019, therefore, the Respondent was eligible to utilize the credit available in his electronic credit ledger. Thus the said Notification No.03/2019-Central Tax dated 29.03.2019 was not applicable in the instant case.

iii. **Unutilised ITC (Para 23):-** The contention of the Respondent was erroneous. In the construction service, the payment plans were linked with the different stages of the construction. Therefore, in general, it might be inferred that if 40% construction has been completed then it might be construed that the payments would have also been received 40% (approx..) of the total payment. It implied that if ITC was accumulating to the Respondent then it could definitely be utilized whenever payments would be received. The Respondent was creating very unique situation where if he had received most of the payments from the home buyers in pre-GST regime and very less amount was pending for collection in GST regime whereas most of the construction of the project was taking place in GST regime only on which huge ITC was accumulating but same could not be utilized as the Respondent had very meagre GST liability due to less receipts in GST regime. Hence, this appeared to be based on assumption and presumption of the Respondent which was impractical.

c. **The whole proceedings are wholly without jurisdiction also because the complainants have already withdrawn their complaints:-**

i. Para 25:- Even if the Applicant No. 1 had withdrawn the complaint, the investigation would proceed.

ii. Para 26 to 28:- As stated above, under the provisions of Section 171 of the CGST Act, 2017 read with Rule 129 of the CGST Rules, 2017, the mandate of DGAP

was to conduct the investigation as per the directions of the Standing Committee on Anti-profiteering and to submit the report on its findings to this Authority under Rule 129(6) of CGST Rules, 2017. There was no stipulation or authority provided under law to DGAP to drop the proceedings.

d. The obligations of the State Level Screening Committee were clearly defined under Rule 128 of the CGST Rules, 2017. The State Level Screening Committee was not an investigating agency or an adjudicating Authority. The State Level Screening Committee merely examined the application and available records/evidences and upon being satisfied that the supplier had contravened the provisions of section 171, simply forwarded the application with its recommendations to the Standing Committee on Anti-profiteering for further action. Therefore, there was no provision/stipulation under Rule 128 of the CGST Rules, 2017 of issuing the notice or affording an opportunity of hearing to the Respondent. Hence, the State Level Screening Committee has acted in an apt manner provided under the statute. Further, the duties of the Standing Committee on Anti-profiteering were clearly defined under Rule 128 and 129 of the CGST Rules, 2017. The Standing Committee was also not an investigation agency or adjudicating Authority. The Standing Committee examined the accuracy and adequacy of the evidence provided in the application to determine whether there was *prima-facie* evidence to support the claim of the Applicant No. 1 that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of ITC had not been passed on to

the recipient by way of commensurate reduction in prices. Further, in the matters, where the Standing Committee was satisfied that there was a *prima-facie* evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of ITC to the recipient by way of commensurate reduction in prices, it referred the matter to the DGAP for a detailed investigation. Therefore, there was no obligation or stipulation under Rule 128 and 129 of the CGST Rules, 207 of issuing the notice or affording an opportunity of hearing to the Respondent. Hence, the Standing Committee has also acted in the guided manner without violating the principles of natural justice.

e. Further, vide the Minutes of Meeting of the Standing Committee on Anti-profiteering, it was communicated that all the complaints were discussed in detail. However, some of complaints appeared to have Pan India ramification or have been recommended by the State Screening Committees for further investigation and these were discussed by the Committee and found to have sufficient and necessary *prima facie* evidence of profiteering and hence decided to forward these complaints to DGAP. Therefore, it was clear that the Standing/Screening Committees in their due wisdom examined the application and *prima facie* evidences and after their satisfaction forwarded the complaint to DGAP.

f. **That the procedure and methodology adopted by the DGAP was wrong, arbitrary, unreasonable, without authority of law and ultra vires the Article 14 and 19 of the Constitution of India:-**

i. Para 30 to 35:- As per Rule 126 of the CGST Rules, 2017, this Authority has been empowered to determine the methodology and procedure for determination as to whether the reduction in the rate of tax or the benefit of ITC has been passed on by the registered person to the recipients by way of commensurate reduction in prices. This Authority has already notified the methodology and procedure under Rule 126 on 28.03.2018. The extent of profiteering has to be arrived at on a case to case basis, by adopting appropriate method based on the facts and circumstances of each case as well as the nature of goods or services supplied. However, considering the vast difference in the nature and type of goods and services supplied by various trade and industry, it would not be feasible to prescribe a uniform method/practice/ principle/rule to calculate such additional benefit of ITC available in the GST regime. The additional benefit of ITC would vary depending on the conditions of the supply as well as the nature of goods or services supplied and have to be determined on a case-to-case basis, in terms of Chapter XV of the CGST Rules, 2017.

ii. Further as stated above, the profiteering, if any, has to be established at a given point of time, in terms of Rule 129(6) of the CGST Rules, 2017. However, reasonable long periods have been considered in pre and post-GST regime, to establish the profiteering.

iii. Para 36:- That in the erstwhile tax regime (pre-GST), various taxes and cesses were being levied by the

Central Government and the State Governments, which got subsumed in the GST. Out of these taxes, the ITC of some taxes was not being allowed in the erstwhile tax regime. In case of construction service, while the ITC of Service Tax was available, the ITC of Central Excise duty paid on inputs was not available to the service provider. Such input taxes, the credit of which was not allowed in the erstwhile tax regime, used to get embedded in the cost of the goods or services supplied, resulting in increased price. With the introduction of GST w.e.f. 01.07.2017, all these taxes got subsumed in the GST and the ITC of GST was available in respect of all goods and services, unless specifically denied. Broadly, the additional benefit of ITC 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 ITC 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 CGST Act, 2017.

iv. In the instant case, in pre-GST regime, the Respondent was eligible to avail Credit of Service Tax paid on input services only (no credit was available in respect of Central Excise duty paid on the inputs) and also ITC of VAT paid on inputs was available to the Respondent. Further, post-GST, the Respondent could avail ITC of GST paid on all the inputs and the input services. Therefore, the Respondent got additional benefit of the

ITC in GST regime and hence contention of the Respondent was not correct.

v. Para 37:- In all the investigation cases pertaining to construction service, the amount of credit availed has been taken instead of credit utilized as unutilized credit out of the availed, could be utilized in future to set off the tax liabilities. In this case, the Respondent had not obtained the Occupancy Certificate or Completion Certificate till the last date of the investigation period i.e., on 30.09.2019. Thus the Respondent was eligible to utilize the ITC available to him in future. The DGAP has conducted his investigation within the scope of Section 171 of the CGST Act, 2017 and Rules made thereunder, on the basis of information and documents collected from the Respondent and submitted the report on his findings to this Authority. Further, it was pertinent to mention here that the profiteering determined against the Respondent in the instant case was merely Rs.33,41,006/ which was very less in comparison with the ITC utilized by the Respondent. Thus the claim of the Respondent was not acceptable.

vi. Para 38:- The averment made by the Respondent was denied as erroneous. The Respondent was collecting the amounts in the form of cash from his customers which included the basic price as well as tax (GST) amount. Now, the GST charged by the Respondent from his customers was to be deposited with the Government exchequer. But this amount of tax was being paid by the Respondent by utilizing the ITC and

not in the form of cash. Hence, the amount collected from the customers in the form of cash in lieu of GST was being retained by the Respondent. As stated above in various paras, this ITC being utilized by the Respondent for the payment of GST to the Government exchequer was the ITC which was not available to him in pre-GST regime. Hence the Respondent has benefitted with this additional ITC in post-GST regime which was required to be passed on to the recipients/customers in terms of Section 171(1) of the CGST Act, 2017. Moreover, any increase in tax component was charged to and collected from customers, whereas any increase in the quantum of ITC might be pocketed. In order to check this, the provisions of Section 171 came into play.

vii. Further, under the provisions of Section 171(1) of the CGST Act, 2017, the benefit of ITC was required to be passed on to the recipients by the supplier of service and everybody in the supply chain was legally required to pass on such benefit. Therefore, if the Respondent was availing services of sub-contractors, the Respondent was also eligible to get the due benefit of ITC from his sub-contractors in terms of Section 171 of the CGST Act, 2017.

viii. Para 42 to 47:- That the data given by the Respondent was the consolidated data pertaining to all the undergoing projects of the Respondent which were yet to be completed. The Respondent has not categorically mentioned the data pertaining to the instant case.

However, the utilization of credit depends on several variables like sold area, construction stage of the project, payment schedule/plan of the project etc. Considering these variables and the data submitted by the Respondent which pertained to several projects, it could not be construed that the Respondent had not been able to completely utilise the ITC.

ix. Para 50:- On the basis of various submissions in paragraphs hereinabove, it is submitted that the Report dated 14.06.2019 submitted by the DGAP to this Authority was correct and within the confines of the law and did not infringe the Respondent's rights enshrined under Article 14 and 19 of the Constitution of India.

g. Para 52:- The Respondent has not made such submission during investigation. Moreover, no documentary evidence has been submitted by the Respondent in support of his claim even now. Therefore, in absence of the same, no clarification could be submitted in this regard.

5. The above Supplementary Report was supplied to the Respondent and the Applicant No. 1 to file their consolidated submissions. The Respondent vide his written submissions dated 23.11.2020 in respect of the clarifications of the DGAP dated 16.10.2020 and has interalia stated:-

a. That the DGAP in his reply has submitted that no fixed mathematical methodology could be prescribed to determine the amount of benefit. Per Contra, the DGAP has been repeatedly using the same self-designed average methodology for computing the alleged benefit of ITC in case

of real estate projects, which was nowhere prescribed in law and suffered from various infirmities.

b. That the entire proceeding of anti-profiteering is pre-mature, wrong, unreasonable and bad in law:-

   i. That the DGAP has denied that submissions of the Respondent made in para 20 of the preliminary objections on the ground that profiteering, if any, has to be established at a given point of time in terms of Rule 129(6) of the CGST Rules 2017. That the Respondent has denied the stand of the DGAP. That Section 171, which was the substantive law, did not provide any such mandate.

   ii. That considering whole of the ITC under the GST regime as reflected in the electronic credit ledger as benefit was wholly incorrect.

   iii. That in the business of real estate, benefit of ITC could only be computed at the end of the project because of the nature of the contracts i.e. long term, and also the requirement of law to reverse the unutilised ITC in respect of unsold units once the completion certificate was issued. Therefore, until the project was complete and competition certificate was issued, the Respondent was not in a position to calculate accurate quantum of ITC benefit. Also, the law did not contemplate passing of input tax benefit provisionally. Therefore, the DGAP's objection that benefit of ITC must be passed on to ITC customers on each and every consideration demanded was wrong and incorrect.

iv. That as per Section 16 of the CGST, the Respondent was eligible to take ITC only till September following the end of financial year to which such credit pertained. Therefore, the Respondent was under an obligation to take the credits.

v. That the inference drawn by the DGAP regarding linkage between construction and the payments received from the customers was not correct as in the real estate, there was no co-relation between construction carried out during the year, and the money which became due from the customers during that year, and also there was no co-relation between availment of ITC and the payment of output tax under the GST.

c. That the actions of the Screening Committee and Standing Committee have civil consequences, and therefore the Respondent has a right to be heard before them in accordance with principles of natural justice. That it was well settled that the authorities were required to offer a hearing to the person adversely affected by their decisions, before taking such decisions. Hence, the Standing Committee and Screening Committee have violated the principles of natural justice and have caused prejudice to the Petitioner.

d. That the Respondent has neither been provided with a copy of the reference made by the Standing Committee in which the alleged satisfaction was recorded, nor the copy of the minutes of meeting of the Standing Committee and the reference made by the Standing Committee in pursuance thereof.

Likewise, minutes of meeting of the screening committee has also not been provided.

e. That there was no right to appeal against the orders of this Authority. Hence, the order passed by the Authority was final and have severe implications on the taxpayers.

f. That the DGAP in its reply has not countered the submissions made by the Respondent in para 38 of the Preliminary objections. Hence, the same shall be accepted, and the alleged calculation of profiteering in its report without considering the said aspect should be set-aside on this ground alone.

6. Since, the quorum of the Authority of minimum three Members, as provided under Rule 134 was not available till 23.02.2022, the matter was not decided. With the joining of two new Technical Members in February 2022, the quorum of the Authority was restored from 23.2.2022. The Respondent and the Applicant No. 1 were also granted hearing through video conferencing on 24.03.2022 and 12.04.2022. The Applicant No. 1 in person appeared before the Authority. Ms. Purvi (Advocate), Sh. B.K. Gupta and Sh. Ketan Jain (Advocate) appeared on behalf of the Respondent and Sh. Raminder Singh, Assistant Commissioner appeared on behalf of the DGAP. During the course of hearing, the Applicant No. 1 has also stated that he has not got any benefit of ITC from the Respondent. The Respondent was directed to submit the documentary evidence regarding passing on the benefit of ITC to his recipients/flat buyers. The Respondent filed his submissions dated 12.04.2022 and 18.04.2022 and has interalia stated that:-

a. Rule 122 of the CGST Rules, 2017 provides appointment of Chairman NAA who holds or has held a post equivalent to a

Secretary to the Govt. of India. However, the present Chairman, NAA does not fulfil the said criteria.

b. As per Rule 122, the Authority shall consist of a Chairman and four Technical Members. Therefore, presence of Chairman is necessary for the purpose of Constitution of Authority. Hence, constitution and functioning of this Authority without having proper Chairman is bad in law.

c. The Respondent has also submitted the unit wise list of buyers with the details of the benefit passed on to them.

d. Increase in ITC on account of increase in rate of tax post-GST cannot be considered as profiteering. The important components of construction in building comprised of steel and cement. The rate of tax on Cement witnessed an increase from 12.5% VAT and 5% surcharge of VAT charged to him in the pre-GST period, to 28% in the post-GST regime. Further, rate of tax on steel witnessed an increase from 5% VAT in the pre-GST regime, to 18% in the post-GST regime. This increase was borne by the Respondent and hence, could not be treated as profiteering.

e. The methodology adopted for calculation of profiteering did not take into account that in the GST period, prices of various goods like Steel, Cement, Brick, Sand and other services had substantially increased after the introduction of GST.

f. That he has passed on the benefit of ITC amounting to Rs. 23,234/- vide credit note dated 06.11.2019 to the Applicant No. 1.

7. The Applicant No. 1 vide e-mail dated 10.06.2022 has also filed his submissions and has stated that :-

a. The construction of his flat was not completed.

b. The Respondent has not raised or done any substantial construction after the commencement of GST. However, he has claimed huge amount of GST credit and thus has cheated the Government.

c. The Respondent was not providing him the update statement despite his recent request.

8. We have carefully considered the Report of the DGAP, submissions made by the Respondent and the Applicant No. 1. 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 and whether various issues raised for the Respondent tenable in the given facts and under the provision of law?

b. If yes what was the additional benefit that had to be passed on to the recipients?

9. Section 171 of the CGST Act provides as under:-

"(1). Any reduction in rate of tax on any supply of goods or services or the benefit of ITC shall be passed on to the recipient by way of commensurate reduction in prices."

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

10. One of the contentions of the Respondent is that neither Section 171 of the CGST Act, 2017 nor has Rule 126 of the CGST Rules, 2017 provided any methodology/procedure according to which this Authority should examine whether any reduction in the rate of tax on any supply of goods or services or the benefit of ITC should be passed on to the recipients by way of commensurate reduction in the prices. In this regard, it is submitted that the 'Procedure and Methodology' for passing on the benefits of reduction in the rate of tax and ITC has been clearly mentioned in Section 171 (1) of the CGST Act, 2017 itself which states that "*Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.*" It is clear from the perusal of the above provision that it mentions "reduction in the rate of tax or benefit of ITC" which means that the benefit of tax reduction or ITC has to be passed on by a registered dealer to his customers since it is a concession which has been granted from the public exchequer which cannot be misappropriated by a supplier. It also means that the above benefits are to be passed on each Stock Keeping Unit (SKU) or unit of construction to each buyer and in case they are not passed on, the profiteered amount has to be calculated for which investigation has to be conducted on all such impacted SKUs/units. These benefits can also not be passed on at the entity/organisation/branch level as the benefits have to be passed on to each recipient at each SKU/unit level. Further, the above Section mentions "any supply" which connotes each taxable supply made to each recipient thereby clearly indicating that a supplier cannot claim that he has passed on more benefit to one customer therefore he would pass less benefit to another customer than the benefit which is actually due to that

customer. Each customer is entitled to receive the benefit of tax reduction or ITC on each SKU or unit purchased by him. The word "commensurate" mentioned in the above Section gives the extent of benefit to be passed on by way of reduction in the prices which has to be computed in respect of each SKU or unit based on the tax reduction as well as the existing base price of the SKU or the additional ITC available. The computation of commensurate reduction in prices is purely a mathematical exercise which is based upon the above parameters and hence it would vary from SKU to SKU or unit to unit and hence no fixed methodology can be prescribed to determine the amount of benefit which a supplier is required to pass on to a recipient or for computation of the profiteered amount. However, to give further elaborate upon this legislative intent behind the law, this Authority has been empowered to determine the 'Procedure and Methodology' which has been done by this Authority vide its Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017. However, no fixed formula which fits all the cases of profiteering can be set while determining such a "Methodology and Procedure" as the facts of each case are different. In one real estate project, date of start and completion of the project, price of the house/commercial unit, mode of payment of price, stage of completion of the project, 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 the other project and hence the amount of benefit of additional ITC to be passed on in respect of one project would not be similar to another project. Therefore, no set parameters can be fixed for determining methodology to compute the benefit of additional ITC which would be required to be passed on to the buyers of such units.

Moreover this Authority under Rule 126 has power to 'determine' Methodology & Procedure and not to 'prescribe' it. However, fixation of commensurate price is purely a mathematical exercise which can be easily done by a supplier keeping in view the reduction in the rate of tax and his price before such reduction or the availability of additional ITC post implementation of GST. Further, the facts of the cases relating to the Fast Moving Consumer Goods (FMCGs), restaurants, construction and cinema houses are 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 are not required to pay even a single penny from their own pocket and hence they have to pass on the above benefits as per the provisions of Section 171 (1) which are abundantly clear, unambiguous and mandatory which truly reflect the intent of the Central and State legislatures. Therefore, the above contention of the Respondent cannot be accepted. The Respondent cannot deny the benefit of tax reduction to his customers on the above untenable ground as Section 171 provides clear cut methodology to compute both the above benefits.

11. The Respondent has further contended that, in the present case the written application/complaint was received by the Standing Committee on 30.07.2018. However, the reference was made by the Standing Committee on Anti-Profiteering to the DGAP on 09.10.2019, which was far beyond the time period prescribed under Rule 128 of the CGST Rules, 2017.

In this regard, upon perusal of the Minutes of Standing Committee of Anti-Profiteering held on 13.09.2019, it is clear that during the meeting 192 complaints were taken up by the Committee which were received by it during the period from 01.07.2019 to 30.08.2019. Upon perusal of Para 3(I) of the Minutes of Meeting, we find that a total number 27 complaints as mentioned in Annexure-1A were received during the month of July-2019. We observe that the name of the Respondent is listed at Sr. No. 22 of the Annexure. Therefore, it is clear that the Standing Committee has received the complaint against the Respondent in the month of July-2019 and vide its Minutes of Meeting dated 13.09.2019, the Standing Committee upon being prima facie satisfied that there might be contravention of the provisions of Section 171 of the CGST Act, 2017 has forwarded the complaints to the DGAP for further investigation. Therefore, the time taken by the Standing Committee to forward the complaint to the DGAP was well within the time limit prescribed under Rule 128 of the CGST Rules, 2017 and hence, the proceedings initiated by the Standing Committee are not time barred.

12. The Respondent has further alleged that Rule 126 of the CGST Rules, which had been enacted in exercise of delegated power of legislation, further delegated the said function to this Authority in complete violation of the principles of law that *delegatee* could not further sub-delegate the essential legislative functions. In this context, it is stated that the Parliament as well as all the State Legislatures have delegated the task of framing 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 this Authority under Rule 127 and 133 of the CGST Rules, 2017, on the recommendation of the GST Council, which is a Constitutional federal body created under the 101st Amendment of the Constitution. 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. Since the functions and powers to be exercised by this Authority have been approved by the competent bodies, the same are legally tenable and binding on Respondent. This Authority, in the exercise of the power delegated to it under Rule 126 of the Rules, ibid, has notified the Methodology and Procedure vide Notification dated 28.03.2018 which is also available on its website. However, it is submitted that no fixed/uniform mathematical methodology can be determined as the facts of each case differ. Therefore, the determination of the profiteered amount has to be done by taking into account the facts of each case. Therefore, the above contention of Respondent is not maintainable and cannot be accepted.

13. The Respondent has also contended that as per clause 1(ii) of the said 'Procedure and Methodology' it would come into force with effect from the issuance of Notification by this Authority. However, no such Notification has been issued in the Official Gazette of India and as such, the same was not enforceable till date. In this regard, it is

pertinent to mention that this Authority in exercise of power delegated to it under the Rule 126 has notified the Methodology and Procedure vide Notification dated 28.03.2018 and the same is enforceable w.e.f. 28.03.2018. Further, there is no requirement for it to be issued in the official Gazette of India for enforcement as per the Act and Rules.

14. He has also cited the judgement passed in the case of ***B.C. Srinivasa Setty [1981(128) ITR 294 (SC)*** in his support. Perusal of this judgement shows that it involved valuation of the goodwill for computation of income tax which is not the issue in the present case. Hence, the above case does not help the Respondent. The Respondent has also cited the judgement passed in the case of ***National Mineral Development Corporation (2004) 6 SCC 281*** in his support in which the issue of levy of royalty on 'slimes' was involved. Hence, the above case is of no help to the Respondent as no such issue is involved in the present case. He has also cited the judgement passed in the case of ***Govind Saran Ganga Saran v. Commissioner of Sales Tax 1985 (60) STC 1 (SC)***. The above case cannot be followed in the present case as it is not possible to define taxability in such cases as profiteering varies in each case as facts and conditions of each case change as amount of ITC availed in each case is different. The Respondent has also relied upon the case of ***Mathuram Agrawal v. State of Madhya Pradesh, (1999) 8 SCC 667***. Perusal of the judgement of Hon'ble Supreme Court shows that it involved the issue of levy of Property Tax under the provisions of the Madhya Pradesh Municipalities Act, 1961. The issue involved in the above mentioned case has no relation with the present proceedings of Anti-Profiteering. Hence, the above case is of

no help to the Respondent. However, it would be relevant to mention here that Section 171 (2) of the CGST Act, 2017 and Rule 122, 123, 129 and 136 of the CGST Rules, 2017 have provided an elaborate machinery in the form of this Authority, the Standing and Screening Committees, the DGAP and a large number of field officers of the Central and the State Taxes to implement the anti-profiteering provisions. Therefore, the Respondent cannot allege that no machinery has been provided to implement the above measures.

15. The Respondent has also alleged that the computation of the accurate quantum of ITC benefit which was required to be passed on to the recipient could only be computed when the completion certificate was issued and ITC in respect of unsold units was reversed. In this regard, we observe that the Respondent is required to pass on the benefit of ITC as soon as he was availing the above benefit to discharge his GST output liability. The Respondent cannot employ different yardsticks while utilising the above benefit every month himself and by asking his buyers to wait for the benefit till the project was completed after a lapse of a long period. In case the Respondent proposes to pass on the benefit to his recipients after completion of the project he should also avail the benefit himself after completion of the project. The Respondent cannot misappropriate the amount of ITC and enrich himself at the expense of the common buyers by denying them the benefit which he is not to pay from his own pocket. Therefore, the above contention of the Respondent cannot be accepted.

16. It has also been contended by the Respondent that a huge amount of unutilized ITC amounting to Rs. 18,41,19,856/- was available to

him which might not be fully utilized in view of the restrictions imposed by the Government vide Notification no. 03/2019-CT (Rate) dated 29.03.2019. Further, only with respect to the projects already commenced before 01.04.2019 and in which the Respondent had opted for continuation of old scheme, the ITC available in his electronic ledger could be utilised. Thus, further eclipsing the utilisation of ITC, and hence could not be considered to be benefit of ITC. In this connection, we observe that changes could be made in the law generally in the public interest by the Government. For ease of tax payers/trade, the law provided a legal remedy in such cases for ease of the trade/tax payers whenever such changes were being made. It is also a matter of fact that in the instant case, the project of the Respondent commenced before 01.04.2019 and therefore, the Respondent was eligible to utilize the credit available in his electronic credit ledger. Thus the said Notification No.03/2019-Central Tax dated 29.03.2019 was not applicable in the instant case. Further the figures of the unutilized ITC amounting to Rs. 18,41,19,856/- that has been provided by the Respondent were with respect to the overall GST registration and not with respect to the subject project i.e. 'Rise'. Hence, there is no correlation between the amount of the above unutilized ITC with the current proceedings.

17. The Respondent has further contended that vide email dated 06th August 2018 the Applicant No. 1 had withdrawn the complaint and therefore the proceedings were liable to be dropped. In this regard, we observe that the anti-profiteering provisions as have been provided in the CGST Act, 2017 and the CGST Rules, 2017, there is no provision where proceedings can be dropped in a case where the complainant has withdrawn the complaint. Even if the Applicant No. 1

has withdrawn his complaint, the investigation with respect of anti-profiteering provisions will proceed. Further, as per the Investigation Report of the DGAP, it has been found that the Respondent has contravened the provisions of Section 171 of the CGST Act, 2017 and has not passed on the benefit of additional ITC to his customers/flat buyers/recipients totally amounting to Rs. 33,41,006/-. As per the reasons mentioned above, the complaint filed by the Applicant No. 1 cannot be withdrawn and hence, the claim of the Respondent cannot be accepted.

18. The Respondent has alleged that the Standing Committee on Anti-profiteering and the Screening Committee on Anti-profiteering never gave any opportunity to the Respondent to present his case and hence the proceedings were being taken wholly against the principles of natural justice. The Respondent has also placed reliance on the case of M/s **Dhakeswari Cotton Mills Ltd. v. Commissioner of Incomes Tax, West Bengal AIR 1955 SC 65.** In this regard, we observe that the contention of the Respondent is not correct. The constitution of the Standing Committee on Anti-Profiteering and the Screening Committee on Anti-Profiteering has been provided under Rule 123 of the CGST Rules, 2017. Under the above said Rule there is no provision of granting personal hearing to the Respondent while forwarding the complaint to the DGAP for investigation. As per Rule 128 of the CGST Rules, 2017 the Standing Committee and the Screening Committees shall only prima facie examine the allegations of profiteering which are to be investigated by the DGAP in detail under Rule 129 (1) of the Rules. In the present case, the Screening Committee on Anti-Profiteering and the Standing Committee on Anti-Profiteering on being prima facie satisfied have

forwarded the complaint to the DGAP for further investigation. The Standing Committee on Anti-Profiteering has not acted in any way against the principle of natural justice. Hence, the above claim of the Respondent cannot be accepted and the case relied upon by him is of no help to him.

19. The Respondent has further claimed that this Authority has not been constituted in accordance with the law laid down by the Apex court in several cases as there was neither any judicial member, nor any technical member expert of the field in question. In this regard, we observe that this Authority has been constituted under Section 171 (2) of the CGST Act, 2017. The Parliament, the State Legislatures, the Central and the State Governments and the GST Council in their wisdom have not thought it fit to provide for a judicial member in this Authority. Such a member has also not been provided in the other such Authorities like the TRAI and SEBI constituted under the Securities and Exchange Board of India Act, 1992 or the Authority on Advance Rulings on the Income Tax, Authority on Advance Rulings on the Central Excise and the Services Tax. There is no universal principle laid down by the Hon'ble Supreme Court that every quasi-judicial authority at every level must have a judicial member. Such a requirement would not only be wholly impractical but also legally suspect. Hence, this contention of the Respondent is not tenable.

20. It has also been alleged by the Respondent that the present constitution and functioning of this Authority, without a regular Chairman and four Technical Members is bad in law.

With respect to the above contention of the Respondent, it is observed that the provisions of Rule 134 of the CGST Rules, 2017 provide that decision of the Authority have to be taken by a minimum of three Technical Members. The said Rule 134 of the CGST Rules, 2017 is as follows:-

"134. Decision to be taken by the majority.-

(1) A minimum of three members of the Authority shall constitute quorum at its meetings.

(2) If the Members of the Authority differ in their opinion on any point, the point shall be decided according to the opinion of the majority of the members present and voting, and in the event of equality of votes, the Chairman shall have the second or casting vote."

Hence, it is clear that the above Rule provides that a minimum of three members of the Authority shall constitute quorum at its meetings and the decision of the Authority in its proceedings is to be taken by the majority. The proceedings in the present case have been carried out in compliance of the said Rule, i.e. by a quorum consisting of three Members and thus, the same cannot be said to have been passed in violation of principles of natural justice. Hence, the contention of the Respondent is illegal and cannot be accepted.

21. The Respondent has further alleged that the calculations on the basis of this method would change with the change in the period of examination. Thus, different figure of profiteering would be obtained by changing the number of years which this Authority selected for comparing the average credit earned by the Respondent before GST and after GST. When some more period was selected for the

purpose of comparing ratio of credit to turnover, the figures varied significantly. Thus, the method was not at all credible or reliable. Therefore, the procedure and methodology adopted by the DGAP was wrong and ultra vires the Article 14 and 19 of the Constitution of India.

In respect of the above contention of the Respondent, we observe that the computation of commensurate reduction in prices is purely a mathematical exercise which is based upon various parameters and hence no fixed methodology can be prescribed to determine the amount of benefit which a supplier is required to pass on to a recipient or for computation of the profiteered amount. However, to elaborate upon this legislative intent behind the law, this Authority has been empowered to determine the 'Procedure and Methodology' which has been done by this Authority vide its Notification dated 28.03.2018 under Rule 126 of the CGST Rules, 2017. However, no fixed formula which fits all the cases of profiteering can be set while determining such a "Methodology and Procedure" as the facts of each case are different. In one real estate project, date of start and completion of the project, price of the house/commercial unit, mode of payment of price, stage of completion of the project, 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 the other project and hence the amount of benefit of additional ITC to be passed on in respect of one project would not be similar to another project. Therefore, no set parameters can be fixed for determining methodology to compute the benefit of additional ITC which would be required to be passed on to the buyers of such units. Moreover this Authority under Rule 126 has power to 'determine' Methodology &

Procedure and not to 'prescribe' it. However, fixation of commensurate price is purely a mathematical exercise which can be easily done by a builder keeping in view the reduction in the rate of tax and his price before such reduction or the availability of additional ITC post implementation of GST. Therefore, the Respondent cannot claim protection under Article 14 of the Constitution when he has violated the above Article himself by denying the benefit of tax reduction to his customers.

22. The Respondent has also alleged that in the pre-GST regime, ITC in respect of VAT and Service Tax were available to the Respondent and only ITC with respect to Excise Duty was not available. Therefore, in the post GST regime, no profiteering could arise on this count. The above allegation of the Respondent is not correct. During the pre-GST period, various taxes and cesses were being levied by the Central Government and the State Governments, which got subsumed after implementation of the GST. Out of these taxes, the ITC of some taxes was not being allowed in the erstwhile tax regime. In case of construction service, while the ITC of Service Tax was available, the ITC of Central Excise Duty paid on inputs was not available to the service provider. Such input taxes, the credit of which was not allowed in the erstwhile tax regime, used to get embedded in the cost of the goods or services supplied, resulting in increased price. With the introduction of GST w.e.f 01.07.2017, all these taxes got subsumed in the GST and the ITC of GST was available in respect of all goods and services, unless specifically denied. Broadly, the additional benefit of ITC 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 as ITC with respect to

Excise Duty that was not available to the Respondent in the pre-GST regime was available to him in the post-GST regime. This clearly confirmed that post-GST, the Respondent has benefitted from additional ITC which was not available to him in the pre-GST period. Upon comparing the ratio of ITC to the turnover during the pre-GST and post-GST regime, we observe that the Respondent has been benefitted from additional ITC to the tune of 7.92% of the turnover. Therefore, the above claim of the Respondent cannot be accepted.

23. The Respondent has also contended that the DGAP has considered the entire ITC as benefit under the GST regime for the purpose of computing the profiteering amount, which was incorrect. He has also placed reliance in this regard to the case of **M/s Commercial Steel Engineering Corporation v. State of Bihar and Others [2019] 57 DSTC 326 (Patna).** With respect to the above contention of the Respondent, we observe that while determining the profiteered amount in all the cases pertaining to construction service, the amount of credit availed has been taken instead of credit utilized as unutilized credit out of the availed, could be utilized in future to set off the tax liabilities. In the present case, the Respondent had not obtained the Occupancy Certificate or Completion Certificate till the last date of the investigation period i.e., on 30.09.2019. Thus the Respondent was eligible to utilize the ITC available to him in future. Therefore, the entire ITC availed by the Respondent has been correctly considered for computation of the profiteered amount. Hence, the above allegation of the Respondent is wrong and cannot be accepted.

24. It has also been alleged by the Respondent that in the erstwhile regime the contractors appointed by him used to charge Service Tax which was around 10% and in the post-GST regime, the GST rate on contractors' activity has been raised to 18%. Thus, there was an increase of approximately 8% in the rate of tax payable in respect of the contractors. Thus, the ITC availed on GST paid to the said contractors, could not be considered to be benefit, rather, substantial portion of the said increased ITC was relatable to increase in rate of GST. With respect to the above allegation of the Respondent, we observe that the Respondent has been raising demands to his customers along with applicable tax amount and collecting the same in the form of cash. Now, the GST charged by the Respondent from his customers was to be deposited to the Government exchequer. This amount of tax was being paid by the Respondent to the Government by utilizing the ITC available to him. This ITC which was being utilized by the Respondent for the payment of GST to the Government exchequer was the ITC which was not available to him in pre-GST regime. Hence the Respondent has benefitted with this additional ITC in post-GST regime which was required to be passed on to the recipients/customers in terms of Section 171(1) of the CGST Act, 2017. Further, under the provisions of Section 171(1) of the CGST Act, 2017, the benefit of ITC was required to be passed on to the recipients by the supplier of service and everybody in the supply chain was legally required to pass on such benefit. Therefore, if the Respondent was availing services of sub-contractors, the Respondent was also eligible to get the due benefit of ITC from his sub-contractors in terms of Section 171 of the CGST Act, 2017.

25. The Respondent has further contended that there was no uniformity in the ratio of billed amount and the expenditure incurred. While in pre-GST regime, the billing was far higher, the construction was not carried out commensurate to the same. The speed of the work increased tremendously in post GST regime, and the construction cost incurred after the GST regime was far higher in proportion to the billings in that period, as compared to the pre GST period taken by the DGAP as the basis. When the construction cost incurred by the Respondent has substantially increased, it was quite natural that the ITC relatable to the said cost has seen sharp surge.

With respect to the above contention of the Respondent, we perused Para 12 of the DGAP's Report dated 28.08.2020 which stated that in the construction service, the payment plans were linked with the different stages of the construction. Therefore, if 40% construction has been completed then the payments would have also been received 40% (approx.) of the total payment. It implies that if ITC was accumulating to the Respondent then it could definitely be utilized whenever payments would be received. The Respondent is positing an imaginary situation in which most of the payments from the home buyers are received in the pre-GST regime and very less amount was pending for collection in GST regime whereas on the other hand most of the construction of the project was taking place in GST regime only on which huge ITC was accumulating but same could not be utilized as the Respondent had very meagre GST liability due to less receipts in GST regime. This, at best, is imaginary and based on assumptions of the Respondent which are impractical.

26. It has also been contended by the Respondent that the DGAP has not given any opportunity to him to either controvert or respond to the methodology adopted by the DGAP for determining profiteering. We

observe that the mandate of DGAP is to conduct investigation as per the directions and recommendation of the Standing Committee on Anti-profiteering. The DGAP submits report of its findings based on the information/data and documents provided, to this Authority under Rule 129 of the CGST Rules, 2017. There is no provision/stipulation in the law to grant any opportunity of hearing by the DGAP during or after the investigation. Since the DGAP is merely an investigating agency, the adjudication to establish profiteering or the absence of it, is done by this Authority. During the proceedings of adjudication, this Authority afforded ample opportunity of hearing following the principles of natural justice. Hence, the above contention of the Respondent is not correct.

27. The Respondent has further claimed that he has already passed on the ITC benefit amounting to Rs. 17,37,958/- till date. In this context, we find that the Respondent has only submitted the list showing the details i.e. Name of the Owner, Flat No. and Amount of ITC benefit passed on. However, no supporting documents i.e. Credit Notes/Cheque/Cash Voucher issued to the customers, bank statement showing debit of the amount passed on, acknowledgement receipts from the customers claiming that they had received the benefit of ITC from the Respondent etc. have been submitted by the Respondent to support his claim that he has passed on the benefit of ITC amounting to Rs. 14,37,958/- to his customers/flat buyers. Therefore, in the absence of any supporting documents, the above claim of the Respondent cannot be accepted.

28. It has also been contended by the Respondent that benefit of ITC could only be computed at the end of the project because of the nature of the contracts i.e. long term, and also the requirement of law

to reverse the unutilised ITC in respect of unsold units once the completion certificate was issued. Therefore, until the project was complete and competition certificate was issued, the Respondent was not in a position to calculate accurate quantum of ITC benefit. In this regard it is mentioned that the Respondent is required to pass on the benefit of ITC as soon as he was availing the above benefit to discharge his GST output liability. The Respondent cannot employ different yardsticks while utilising the above benefit every month himself and by asking his buyers to wait for the benefit till the project was completed after a lapse of a long period. In case the Respondent proposes to pass on the benefit to his recipients after completion of the project he should also avail the benefit himself after completion of the project. The Respondent cannot misappropriate the amount of ITC and enrich himself at the expense of the common buyers by denying them the benefit which he is not to pay from his own pocket. Therefore, the above contention of the Respondent is frivolous and hence, the same cannot be accepted.

29. It is clear from the plain reading of Section 171(1) mentioned above that, it deals with two situations one relating to the passing on the benefit of reduction in the rate of tax and the second pertaining to the passing on the benefit of the ITC. On the issue of reduction in the tax rate, it is apparent from the DGAP's Report that there has been no reduction in the rate of tax in the post GST period; hence the only issue to be examined is as to whether there was any net benefit of ITC with the introduction of GST. On this issue it has been revealed from the DGAP's Report that the ITC as a percentage of the turnover that was available to the Respondent during the pre-GST period (April-2016 to June-2017) was 5.23% and during the post-GST

period (July-2017 to September-2019), it was 13.15%. This confirms that, post-GST, the Respondent has been benefited from additional ITC to the tune of 7.92% (13.15%-5.23%) of his turnover and the same was required to be passed on to the Applicant No. 1 and the other customers/ flat buyers/ recipients. The DGAP has calculated the amount of ITC benefit to be passed on to all the customers/ flat buyers/ recipients as Rs. 33,41,006/- on the basis of the information supplied by the Respondent. The above amount is inclusive of Rs. 19,805/- which is the profiteered amount in respect of the Applicant No. 1.

30. We find that the additional benefit of ITC availed by the Respondent during the period July 2017 to September 2019 which is required to be passed on to his home buyers/customers/recipients, has been correctly calculated by the DGAP which is based on the factual records/information furnished by the Respondent, and according to the Methodology which has been approved by this Authority in all the cases where benefit of ITC is required to be passed on under the provisions of Section 171 of the CGST Act, 2017.

31. In view of the above discussions, the Authority finds that the Respondent has profiteered by an amount of Rs. 33,41,006/- during the period of investigation i.e. July 2017 to Sept-2019. The above amount that has been profiteered by the Respondent from his customers/ flat buyers/ recipients shall be refunded/returned/passed on by him, along with interest @18% thereon, from the date when the above amount was profiteered by him till the date of such payment, in line with the provisions of Rule 133 (3) (b) of the GCST Rules 2017.

32. This Authority under Rule 133 (3) (a) of the CGST Rules, 2017 orders that the Respondent shall reduce the prices to be realized from the customers/ flat buyers/ recipients commensurate with the benefit of ITC received by him as has been detailed above.

33. The Respondent is also liable to pay interest as applicable on the entire amount profiteered, i.e. Rs. 33,41,006/-. Hence the Respondent is directed to also pass on interest @18% to the customers/ flat buyers/ recipients on the entire amount profiteered, starting from the date from which the above amount was profiteered till the date of passing on/ payment, as per provisions of Rule 133 (3) (b) of the CGST Rules 2017.

34. We also order that the profiteering amount of Rs. 33,41,006/- along with the interest @ 18% from the date of receiving of advance from the customers/ flat buyers/ recipients till the date of passing the benefit of ITC shall be paid/passed on by the Respondent within a period of 3 months from the date receipt of this order failing which it shall be recovered as per the provisions of the CGST Act, 2017.

35. The complete list of customers/ flat buyers/ recipients has been attached with this Order, with the details of amount of benefit of ITC to be passed along with interest @ 18% as in the **Annexure-1.**

36. It is also evident from the above narration of facts that the Respondent has denied benefit of ITC to the homebuyers/customers/recipients of the Units being constructed by him in contravention of the provisions of Section 171 (1) of the CGST

Act, 2017 and has committed an offence under Section 171 (3A) of the above Act. Section 171 (3A) of the CGST Act, 2017 has been inserted in the CGST Act, 2017 vide Section 112 of the Finance Act, 2019, w.e.f. 01.01.2020 and hence, was not in force during the period of investigation i.e. from July 2017 to Sept-2019, when the Respondent had committed the above violation and hence, the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively.

37. The present investigation has been conducted up to 30.09.2019 only. However, the Respondent has not obtained the Completion Certificate (CC) till that date. Therefore, he is liable to pass on the benefit of ITC which would become available to him till the date of issue of CC. Accordingly, the concerned jurisdictional Commissioner CGST/SGST are directed to ensure that the Respondent passes on the benefit of ITC to the eligible flat buyers as per the methodology approved by this Authority in the present case and submit report to this Authority through the DGAP. The Applicant No.1 or any other flat buyer shall also be at liberty to file complaint against the Respondent before the Haryana State Screening Committee in case the remaining benefit of ITC is not passed on to them.

38. 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 customers/ flat buyers/ recipients as per Annexure- 1 attached with this Order along with interest @18%, if not paid already. In this regard an advertisement of appropriate size to be visible to the public may also be published in minimum of two local

Newspapers/vernacular press in Hindi/English/local language with the details i.e. **Name of builder (Respondent) – M/s Ramprastha Promoter and Developer Pvt. Ltd., Project- 'Rise', Location- Gurugram, Haryana** and amount of profiteering Rs. 33,41,006/- , so that the concerned customers/ flat buyers/ recipients can claim the benefit of ITC if not passed on. Homebuyers may also be informed that the detailed NAA Order is available on Authority's website **www.naa.gov.in**. Contact details of concerned Jurisdictional CGST/SGST Commissioner may also be advertised through the said advertisement.

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

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

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

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

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

41. A copy of this order be sent, free of cost, to both the Applicants, the Respondent, Commissioners CGST/SGST Haryana as well as the Principal Secretary (Town and Country Planning), Government of Haryana and Haryana RERA for necessary action. File of the case be consigned after completion.

Annexed:- Annexure 1 in Pages 1 to 9.

Sd/-	Sd/-	Sd/-
(Amand Shah)	(Pramod Kumar Singh)	(Hitesh Shah)
Technical Member & Chairman	Technical Member	Technical Member

Certified Copy

(Dinesh Meena)
NAA, Secretary

File No. 22011/NAA/201/Ramprastha(Rise)/2020 Date:-05.08.2022

Copy To:-

1. M/s Ramprastha Promoter & Developer Pvt. Ltd, Plot No. 114, Sector-44, Gurugram, Haryana-122022. (GSTIN-06AADCR6481J1Z2)
2. Shri. Ram Prakash Sharma, A-163, Sarita Vihar, New Delhi-110076.

3. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.
4. Commissioner Of Commercial Taxes, Vanijya Bhavan, Plot No. 1-3, Sector-5, Panchkula- 134 151.
5. The Commissioner, CGST Gurugram, Plot No. 36 & 37, Sector-32, Gurugram, Haryana-122001.
6. Principal Secretary to Govt. of Haryana, Town and Planning Department, Plot No. 3, Sec-18A, Madhya Marg, Chandigarh-160018.
7. Haryana RERA, New PWD Rest House, Civil Lines, Gurugram, Haryana.
8. Guard File.

ANNEXURE-1 LIST OF HOME BUYERS OF THE PROJECT 'RISE'				
S.No	Customer Code	Name of Customer	Unit No.	Profiteering (Amount in Rs)
1	R-000327	Mr. Kaaran Chauhan	A-1001	*
2	R-000329	Mr. Md. Wahaz Alam	A-1002	*
3	R-172	Mr. Abhishek Goel	A-1003	*
4	R-259	Mr. Ravi Babu Singamaneni	A-101	*
5	R-171	Mr. Manish Sharma	A-1101	*
6	R-242	Mr. Vinay Kumar Mangla	A-1102	*
7	R-164	Mr. Rajnish Sinha	A-1103	*
8	R-309	Mr. Harish Chauhan	A-1201	*
9	R-167	Mr. Vivek Ghosh	A-1202	*
10	R-160	Mr. Nikhil	A-1203	*
11	R-192	Mr. Vivek Bhatnagar	A-1301	*
12	R-191	Mr. Sarthak Jain	A-1302	*
13	R-225	Mr. Ashish Khurana	A-1303	*
14	R-170T1	Mr. Ashish Prinja	A-1401	*
15	R-241	Mr. Kapil Dev Bhatia	A-1402	*
16	R-000330	MD.WAHAZ ALAM	A-1702	*
17	R-194	Mr. Rajiv Kumar Choubey	A-1403	*
18	R-203	Mrs. Mamta Agarwal	A-1501	*
19	R-185	Mrs. Anju Ahuja	A-1502	*
20	R-174	Mr. Aashish Khanna	A-1503	*
21	R-159	Mrs. Renu Malik	A-1601	*
22	R-190	Mrs. Nidhi Jain	A-1602	*
23	R-188	Mrs. Bharti Jagirdar	A-1603	*
24	R-195	M/S. Hari kishan goenka & sons (huf)	A-1701	*
25	R-208	Mrs. Rajani Uppal	A-1703	*
26	R-140	Brig. Inder Pal Singh soin	A-1801	*
27	R-198	Mr. Gaurav Bhateja	A-1802	*
28	R-213	Mrs. Shanta Bahl	A-1803	*
29	R-137	Mrs. Parul Jain	A-1901	*
30	R-231	Mr. Mukesh Chandra Madhukar	A-1902	*

31	R-261	Mrs. Mani Jain	A-1903	*
32	R-215	Mrs. Urmil Diwan	A-2001	*
33	R-204	Mrs. Rachna Sethi	A-2002	*
34	R-210	Mr. Ashish Arora	A-2003	*
35	R-131	Mr. Anil Kumar	A-201	*
36	R-299	Mr. Tushar Kapoor	A-202	*
37	R-294	Mr. Deepak Jaggi	A-203	*
38	R-202	Mr. Paramdeep Singh	A-2101	*
39	R-223	Mrs. Prachi Agarwal	A-2102	*
40	R-230	Mr. Naveen Arora	A-2103	*
41	R-226	Ms. Kiranjit Kaur Arora	A-2201	*
42	R-207	Mr. Deep Chowdhury	A-2202	*
43	R-268	Mr. Tarun Gupta	A-2203	*
44	R-224	Mrs. Manvi Goenka	A-2301	*
45	R-256	Mr. Anudyuti Das	A-2302	*
46	R-244	Ms. Jyoti Bala	A-2303	*
47	R-200	Mr. Vizender Mohan	A-2401	*
48	R-277	Mr. S.k. Jain	A-2402	*
49	R-269	Mr. Randeep Bhatia	A-2403	*
50	R-211	Mrs. Navita Bhatia	A-2501	*
51	R-252	Mr. Sunil Rathi	A-2502	*
52	R-280	Mr. Deepak Khullar	A-2503	*
53	R-158	Mr. Subhash Chand Jain	A-301	*
54	R-272	Mr. Sangam Tripathy	A-302	*
55	R-180	Mr. Sanjeev Raman	A-303	*
56	R-147	Mrs. Madhu Pathak	A-401	*
57	R-290	Mr. B.s. Joon	A-402	*
58	R-162	Mr. Uddipta Bimal Borah	A-403	*
59	R-274	Mrs. Reeta Gandhi	A-501	*
60	R-291	Mr. Nishant Kumar	A-502	*
61	R-288	Mr. Anjani Kumar	A-503	*
62	R-197	Mr. Rakesh Sehgal	A-602	*
63	R-175	Mr. Nitin Aggarwal	A-603	*

64	R-206	Mr. Dishank Malik	A-701	*
65	R-300	Mr. Vivek Khanna	A-702	*
66	R-264	Mr. Manoj Kumar Nigam	A-703	*
67	R-205	Mr. Vineet Kumar	A-801	*
68	R-251	Mr. Jagpal Singh Gautam	A-802	*
69	R-265	Mr. Vijay Sagar	A-803	*
70	R-181	Mr. Tridib Kumar Saha	A-901	*
71	R-178	Mr. Apangshu Saha	A-902	*
72	R-179	Mr. Kapil Kathurria	A-903	*
73	R-255	Mr. Sanjay Kumar Srivastava	A-G01	*
74	R-000328	Mr. Md. wahaz Alam	A-G02	*
75	R-000334	Mr. Pradeep Dahiya	A-G03	*
76	R-088	Mrs. Anju Chawla	B-1001	*
77	R-145	Mr. Prem Kumar Chhibber	B-1002	*
78	R-132	Mrs. Sangeeta Tripathy	B-1003	*
79	R-218	Mr. Nitish Mahajan	B-102	*
80	R-263	Mr. Ramphal Singh	B-103	*
81	R-095	Mrs. Kavitha Bommareddy	B-1101	*
82	R-118	Mrs. Deepika Pankaj Jaiswal	B-1102	*
83	R-173	Mr. Rahul Kumar Purwar	B-1103	*
84	R-124	Mr. Bhupesh Kapoor	B-1201	*
85	R-183	Mr. Sougaijam bunty bikram Kumar Singh	B-1202	*
86	R-142	Mr. Shaukat Ali	B-1203	*
87	R-287	Mr. Rajul Garg	B-1301	*
88	R-270	Mr. Sandeep Mangla	B-1302	*
89	R-163	Mr. Ashish Joshi	B-1303	*
90	R-130	Mrs. Poonam Chawla	B-1401	*
91	R-144	Mr. Shavej Ahmad	B-1402	13200
92	R-141	Mr. Rajeev Aggarwal	B-1403	*
93	R-082	Mr. Rajiv Sethi	B-1501	*
94	R-182	Mr. Praveen Raina	B-1502	*
95	R-150	Mrs. Sakshi Khanna	B-1503	*
96	R-133	Mr. Piyush Garg	B-1601	*

97	R-149	Mr. Ankur Arora	B-1602	*
98	R-151	Mrs. Madhu Malkani	B-1603	*
99	R-125	Mrs. Puja Khatri	B-1701	*
100	R-148	Mr. Swapan Choudhury	B-1702	*
101	R-266	Mr. Vishal Anand	B-1703	*
102	R-100	Mr. Dhruv Arora	B-1801	*
103	R-289	Mr. Ravinder Bhat	B-1802	*
104	R-176	Mr. Sandeep Parcha	B-1803	*
105	R-127	Mr. Abhishek Sharma	B-1901	*
106	R-196	Mrs. Nikita Malik	B-1902	*
107	R-199	Mr. Deepak Grover	B-1903	*
108	R-157	Mrs. Rachna Rastogi	B-2001	*
109	R-189	Ms. Richa Bhutani	B-2002	*
110	R-000340	M/S. Sgy Properties Private limited	B-2003	*
111	R-096	Mr. Alok Mishra	B-201	*
112	R-120T1	Mrs. Shweta Sahay	B-202	*
113	R-320	Mr. Parveen Singh	B-203	*
114	R-165	Mr. Amit Bhatia	B-2101	*
115	R-214	Mrs. Veena Malik	B-2102	*
116	R-168	Mr. Kapil Gupta	B2103	*
117	R-166	Mr. Ravindra Sharma	B-2201	*
118	R-222	Mr. Surender Singh Rana	B-2202	*
119	R-000341	M/S. Sgy Properties Private limited	B-2203	*
120	R-278	Mr. U s infotech pvt ltd	B-2301	*
121	R-250	Mr. Mohammad Ahmed Siddiqi	B-2302	*
122	R-000337	Mr. Pradeep Dahiya	B-2303	*
123	R-104	Mrs. Purnima Mohta	B-301	*
124	R-297	Mr. Jagdish Singh Gahlot	B-302	*
125	R-000324	Mr. Vishwash Rana	B-303	*
126	R-084	Mr. Gurpreet Singh Gujral	B-401	*
127	R-273	Mr. Sahdev Bhardwaj	B-402	*
128	R-156	Mr. Nitin Mishra	B-403	*
129	R-091	Ms. Hansi Rawat	B-501	*

130	R-187	Mr. Saurabh Gupta	B-503	*
131	R-284	Mrs. Kusum Rani Gupta	B-601	*
132	R-216	Mr. Jaiparkash Garg	B-602	*
133	R-184	Mr. Saurabh Bhatnagar	B-603	*
134	R-146	Mr. Mayank Meenketan	B-701	*
135	R-000323	Mr. Ankit Aggarwal	B-702	*
136	R-152	Mr. Sandeep Patel	B-703	*
137	R-092	Mrs. Soma Kumari	B-801	*
138	R-134	Mr. Kamal Kandhari	B-802	*
139	R-135	Mrs. Bhavna Aggarwal	B-803	*
140	R-243	Mr. Ankur Mehrotra	B-901	*
141	R-186	Mr. Ravi Ranjan	B-902	*
142	R-129	Mrs. Geeta	B-903	*
143	R-229	Mr. Manoj Ahlawat	B-G02	*
144	R-260	Mr. Kunal Chakraborty	B-G03	*
145	R-073	Mr. Rishi Tandon	C-1002	40706
146	R-109	Mrs. Surbhi Obeja	C-1003	35613
147	R-285	Mr. Amrit Anand	C-101	*
148	R-062	Mr. Kailash Tiwari	C-1101	20920
149	R-307	Mr. Rai Singh	C-1102	*
150	R-119	Mr. Sunil Mathur	C-1103	*
151	R-047	Mrs. Santosh Sharma	C-1201	*
152	R-139	Mr. Paras Sharma	C-1202	20353
153	R-107	Mr. Bhupesh Kanyal	C-1203	61059
154	R-123	Mrs. Aanchal Talwar	C-1301	21045
155	R-153	Mr. Dhananjoy Moirangthem	C-1302	40706
156	R-193	Mr. Amit Nag	C-1303	*
157	R-049T1	Mr. Vipul Khare	C-1401	*
158	R-121	Mr. Raja Natarajan	C-1402	*
159	R-316	Mr. Shisu Bandhu Dey	C-1403	*
160	R-048	Mr. Sorabh Bansal	C-1501	*
161	R-098	Mr. Sanjeev Jindal	C-1502	*
162	R-069	Mr. Rupesh Kaul	C-1503	40579
163	R-235	Mrs. Saroj Gupta	C-1601	*
164	R-093T1	Mrs. Jyotsna Kumar	C-1602	*
165	R-094T1	Mrs. Bana Mongia	C-1603	*

166	R-101	Mr. Navin Chandra Singh	C-1701	42090
167	R-106	Mr. Shishir Kumar Mishra	C-1702	20353
168	R-122	Mrs. Shashi Ahuja	C-1703	39871
169	R-112	Mr. K. V. Bharadwaj	C-1801	42090
170	R-126	Mr. Sanjay Sinha	C-1802	20353
171	R-116	Mr. Vaibhav Mahajan	C-1803	40706
172	R-306T3	Mr. Amit Gaba	C-1901	*
173	R-090	Mr. Subhash Chander Bhola	C-1902	40706
174	R-161	Mr. Harish Jain	C-1903	*
175	R-305	Mr. Abhishek Singhal	C-2001	*
176	R-313	Mr. Sudhir Yadav	C-2002	*
177	R-115	Mr. Mahender Kumar Mittal	C-2003	40667
178	R-042	Mr. Harjit Singh Makkar	C-201	19744
179	R-108	Mr. Maneesh Saran Khanna	C-202	40706
180	R-114	Mrs. Ruchika Bidani Negi	C-203	20353
181	R-279	Mrs. Jatinder Grover	C-2101	21045
182	R-209	Mr. B. K Murali	C-2102	*
183	R-248	Mrs. Shivanee Chauhan	C-2103	20353
184	R-076	Mrs. Sneh Lata Sharma	C-301	40471
185	R-154	Mr. Surinder Singh	C-302	40706
186	R-143	Mr. Atul Sanghal	C-303	*
187	R-236	Mrs. Shikha Gupta	C-401	*
188	R-000331	Ms. Astha Sharma	C-402	*
189	R-238	Mr. D.k. Sharma	C-403	*
190	R-237	Mr. Praveer Gupta	C-501	40471
191	R-000343	Mr. Ranjit Singh	C-502	*
192	R-317	Mrs. Surabhi Jain	C-503	45401
193	R-071	Mr. G Naman Tuteja	C-601	42090
194	R-111	Mrs. Ankita Srivastava	C-602	40706
195	R-113	Mrs. Meenakshi Mohan	C-603	40706
196	R-312	Dr. Shivalik Kapoor	C-701	*
197	R-083	Mr. Chandra Shekhar Singh	C-702	41750
198	R-097	Mrs. Esha Mahajan	C-703	*
199	R-055	Mrs. Manu Kapoor	C-801	20236
200	R-103	Mr. Gautam Chatterjee	C-802	40706
201	R-308	Mr. Rajesh Kumar	C-803	*
202	R-078	Mrs. Gayatri Talwar	C-901	*
203	R-085	Mrs. Ashu Chugh	C-902	*
204	R-105	Mr. Vipin Gupta	C-903	40706
205	R-227	Mr. Sanjay Gupta	C-G01	*
206	R-000332	Mr. Naveen Tuli	C-G02	*
207	R-000333	Mr. Naveen Tuli	C-G03	*
208	R-040	Mr. Pankaj Koli	D-1001	*

209	R-032	Mr. Vikram Verma	D-1002	39141
210	R-081	Mr. Sunil Sikka	D-1003	*
211	R-267	Mr. Manish Gupta	D-101	*
212	R-022	Mr. Aman Malhotra	D-1101	40471
213	R-053	Mr. Nitin Raj	D-1102	*
214	R-054	Mr. Ramesh Kumar Gupta	D-1103	*
215	R-020	Mr. Areesh Wali Khan	D-1201	*
216	R-056	Mr. Krishan Kumar Sodhi	D-1202	*
217	R-059	Mrs. Aparna Omar	D-1203	*
218	R-295	Mr. Raj Kumar Kochar	D-1301	*
219	R-155	Mr. Gourav Dangey	D-1302	*
220	R-220	Mr. Manish Gupta	D-1303	40706
221	R-019	Mr. Makush Kapoor	D-1401	40471
222	R-074	Mr. Divyam Jha	D-1402	40706
223	R-072	Mr. Ved Pal Prajapati	D-1403	*
224	R-018	Mrs. Sushma Gupta	D-1501	19750
225	R-079	Dr. Romik Ghosh	D-1502	40706
226	R-099	Mrs. Reema Goyal	D-1503	19831
227	R-051	Mr. Atul Nagi	D-1601	*
228	R-303	Mr. Ashish Bhargava	D-1602	*
229	R-302	Ms. Jyoti Sharma	D-1603	*
230	R-028	Mr. Rajesh Kumar Srivastav	D-1701	38667
231	R-057	Mr. Sanjay Bagati	D-1702	33737
232	R-217	Mr. Dhruva Kapur	D-1703	41750
233	R-039	Mr. Alok Tandon	D-1801	20236
234	R-067	Mrs. Madhu Mahna	D-1802	40706
235	R-212	Mr. Naveen Saxena	D-1803	40706
236	R-282	Mr. Rabinder Singh Grover	D-1901	42090
237	R-271	Mr. Vijay Kumar Gupta	D-1902	40182
238	R-254	Mr. Saurabh Kasturia	D-1903	19449
239	R-025	Mr. Gagan Bhatia	D-201	35471
240	R-065	Mr. Sachin Kapila	D-202	38577
241	R-043	Mr. Ankur Garg	D-203	39141
242	R-041	Mr. Virendra Kumar Gupta	D-301	40471
243	R-045	Mr. Deepak Bhardwaj	D-302	39141
244	R-058	Mrs. Ritu Agarwal	D-303	40706
245	R-033	Mr. Arun Singh Rongkali	D-401	40471
246	R-311	Mr. Pankaj Goel	D-402	*
247	R-177	Mr. Pankaj Chakraborty	D-403	*
248	R-046	Mr. V Rajan	D-501	19750
249	R-201	Mr. Sarabjeet Singh Roddey	D-502	40706
250	R-080	Mr. Dharam Paul Singla	D-503	37575
251	R-031	Mr. Sushanta Sen	D-601	20236

252	R-066	Mr. Sachin Sharma	D-602	*
253	R-075	Mr. Divesh Kumar Singla	D-603	37575
254	R-044	Mr. Rajeev Kumar Chouhan	D-701	40279
255	R-064	Mr. Ravi Puliani	D-702	*
256	R-086	Mr. Anil Ram Baijal	D-703	38379
257	R-029	Mrs. Rashmi Bathla	D-801	40471
258	R-068	Mrs. Rasmeet Bindra	D-802	40706
259	R-070	Mr. Om Prakash Nagpal	D-803	*
260	R-034	Mr. Mukesh Bhardwaj	D-901	*
261	R-301	Mr. Vijay Jindal	D-902	*
262	R-318	Mr. Amit Hirawat	D-903	*
263	R-257	Mr. Sanjeev Sharma	D-G01	*
264	R-000336	Mr. Pradeep Dahiya	D-G03	*
265	R-005	Mr. Rahul Goyal	E-1001	20236
266	R-052	Mr. Prabhakar Kumar	E-1002	39092
267	R-050	Mr. Maheep Kumar Shukla	E-1003	39141
268	R-292	Mrs. Nirmal Ahuja	E-102	*
269	R-246	Mrs. Indu Sangwan	E-103	40503
270	R-036	Mrs. Savita Bhaskar	E-1101	40471
271	R-060	Mr. Vivian Robert R	E-1102	39141
272	R-030	Mr. S. Ananth	E-1103	38617
273	R-014	Mr. Piyush Goel	E-1201	41011
274	R-000344	Mrs. Shruti Chaudhary	E-1202	*
275	R-239	Mr. Girish Arora	E-1203	*
276	R-023	Mr. Shreedhar Vyas	E-1301	39929
277	R-228	Mr. Ram Prakash Sharma	E-1302	19805
278	R-117	Mr. Vimal Shah	E-1303	40706
279	R-017	Colonel Sachit Sardana	E-1401	40471
280	R-315	Mr. Pravir Garg	E-1402	*
281	R-013	Colonel Rajiv Mankotia	E-1403	*
282	R-016	Mrs. Mukta Chadha	E-1501	*
283	R-006	Mr. Rajesh Kumar	E-1502	39141
284	R-304	Ms. Akanksha Garg	E-1503	*
285	R-015	Mrs. Sarita Singh	E-1601	*
286	R-314	Mrs. Renu Yadav	E-1602	*
287	R-253	Mr. Luv Dhody	E-1603	40498
288	R-219	Mrs. Simi Nair	E-1701	41649
289	R-258	Mr. Akash	E-1702	38684
290	R-310	Mr. Rajeev Ranjan	E-1703	19307
291	R-009	Mr. Prannoy Khurana	E-201	*
292	R-128	Mrs. Kamini Tandon	E-202	39662
293	R-001	Mr. Ashok Dhadwal	E-203	39141
294	R-012	Mr. Mani Rana	E-301	40471

295	R-027	Mr. Amit Kumar	E-302	*
296	R-002	Mr. Shyamendra Singh Solanki	E-303	*
297	R-110T1	Mr. Rohit	E-401	*
298	R-007	Mr. Nitin Kumar Singhal	E-402	39141
299	R-298	Mrs. Sarika Mittal	E-403	*
300	R-063	Mrs. Deepika Arya	E-501	*
301	R-249	Mr. C. K Veda	E-502	38253
302	R-026	Mr. Praveen Kumar Jain	E-503	*
303	R-003	Mr. Jitender Pal	E-601	*
304	R-102	Ms. Shalini Sahai	E-602	40706
305	R-240	Mr. Tarun Murarka	E-603	*
306	R-008	Mr. Yogesh Bandhu Sharma	E-701	40471
307	R-000325	Major Gen. Ram phool Sian	E-702	*
308	R-010	Mr. Sachin Rawat	E-703	39141
309	R-004	Mr. Akhilesh Nand	E-801	*
310	R-011	Mr. Brijesh Prakash	E-802	38781
311	R-061	Mr. Navdeep Nagpal	E-803	*
312	R-000342	M/S. Sgy Properties Private limited	E-901	*
313	R-024	Mr. Rajiv Julka	E-902	*
314	R-038	Mrs. Shashi Julka	E-903	*
315	R-247	Mr. Anuj Sharma	E-G02	40706
316	R-245	Mrs. Neera Gupta	E-G03	*

'*':-No amount is indicated in the DGAP's report dated 28.08.2020 (Annexure-16).