



BEFORE THE COMPETITION COMMISSION OF INDIA

(AUTHORITY UNDER SECTION 171 OF THE CENTRAL GOODS & SERVICES TAX ACT, 2017)

Case No. : 06/2023
Date of Institution : 31.08.2022
Date of Order : 26.07.2023

In the matter of:

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.

Applicant

Versus

M/s SJP Hotel & Resorts Pvt. Ltd., C-2, Mahalaxami Mall, 5th Floor, Raj Nagar, Ghaziabad, Uttar Pradesh-201001.

Respondent

Coram:-

1. Smt. Ravneet Kaur, Chairperson
2. Smt. Sangeeta Verma, Member
3. Sh. Bhagwant Singh Bishnoi, Member

ORDER

1. The present Report dated 30.08.2022 has been received from the Director General of Anti-Profiteering (**DGAP**) after a detailed investigation under Rule 133(5) of the Central Goods & Tax (CGST) Rules, 2017. The brief facts of the case are that the erstwhile National Anti-Profiteering Authority (NAA) in the case of M/s SJP Hotel & Resorts Pvt. Ltd. had confirmed profiteered amount of Rs. 6,87,58,685/- in respect of the project "Migsun Wynn" vide its Order. No. 46/2022 dated 26.07.2022. Vide Para-28 of the above Order, the NAA in terms of Rule 133(5) of the CGST Rules, 2017, had directed the DGAP to conduct investigation in respect of all other projects of the Respondent under the same GST Registration No. which had not yet been investigated from the perspective of the Section

171 of the CGST Act, 2017 and submit complete investigation Report to the Authority for determination whether the Respondent is liable to pass on the benefit of ITC in respect all the other Projects to the buyers, or not.

2. Vide the above mentioned Report, the DGAP has stated that:-
 - i. The Authority vide its Order No. 46/2022 dated 26.07.2022 had determined profiteering in respect of the project "Migsun Wynn" executed by the Respondent.
 - ii. On receipt of the above said Order, notice under Rule 129 of the CGST Rules, 2017 was issued by the DGAP on 29.07.2022, calling upon the Respondent to reply as to whether he admitted that the benefit of ITC had not been passed on to the customers of projects other than "Migsun Wynn", if any, 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 the supporting documents.
 - iii. The period covered by the current investigation was from 01.07.2017 to 30.06.2022.
 - iv. In response to the notice dated 29.07.2022, the

Respondent replied vide letter and e-mails dated 18.08.2022, 25.08.2022 and 26.08.2022 and stated that:-

- a. In respect of the project "Migsun Wynn", the NAA had determined the profiteered amount vide its Order No. 46/2022 dated 26.07.2022.
- b. He had only one project under GST Registration Number 09AALCS8695P1ZZ, which had been investigated and profiteering had been determined by the NAA.
- c. He did not have any other project. Therefore, question of submission of evidence and documents to DGAP did not arise.
- d. Any other project as per RERA records did not fall under the same GSTIN.
- v. The DGAP has verified the above claim of the Respondent that he had not undertaken any project other than "Migsun Wynn", by checking the details of projects executed by him registered with UP Real Estate Regulatory Authority (RERA) from the UPRERA website. Upon verification, it was observed that one more Project was registered with UPRERA i.e. Migsun Janpath under RERA Registration

No. UPRERAPRJ986676 which belongs to other GSTIN number 09AALCS8695P2ZY. The said project was approved by Lucknow Development Authority vide Sanction Letter No. MAP20190715201831787 dated 11-12-2019 after introduction of GST. For further confirmation of the above fact, a letter to the Jurisdictional Commissioner has also been written by the DGAP.

- vi. On the basis of the details of outward supply of Construction services submitted by the Respondent, it was observed that the Respondent was providing his services in the State of Uttar Pradesh only.
 - vii. The DGAP has concluded that in view of the above findings, Section 171(1) of the CGST Act, 2017 requiring that 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”*, was not applicable in the present case.
3. This Commission has carefully considered the DGAP’s Report dated 30.08.2022 and the documents/information placed on record and it has been revealed that the Respondent is

executing a single project namely "Migsun Wynn" under GSTIN 09AALCS8695P1ZZ and this has also been verified by the DGAP from the website of Uttar Pradesh Real Estate Regulatory Authority (UPRERA).

4. Further, the Respondent is also executing one more project "Migsun Janpath" registered in UPRERA under RERA Registration No. UPRERAPRJ986676 which belongs to other GSTIN 09AALCS8695P2ZY. The above project was approved by Lucknow Development Authority vide Sanction Letter No. MAP20190715201831787 dated 11-12-2019 after introduction of GST.
5. In view of the above findings, we find that the instant case does not fall under the ambit of Anti-Profiteering provisions of Section 171 of the CGST Act, 2017 as the Respondent is not executing any project other than the project "Migsun Wynn" which has already been investigated and profiteered amount determined by the NAA vide its Order No. 46/2022 dated 26.07.2022.
6. Accordingly, the present proceedings being conducted against the Respondent are dropped.

7. A copy of this order be supplied to all the parties and file of the case be consigned after completion.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

Certified Copy


(Jyoti Jindgar Bhanot)
Secretary

File No. 22011/NAA/128/SJP(N)/2022/431 - 433 Date:- 26.07.2023

Copy To:-

1. M/s SJP Hotel & Resorts Pvt. Ltd., C-2, Mahalaxami Mall, 5th Floor, Raj Nagar, Ghaziabad, Uttar Pradesh-201001.
2. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
3. Guard File.