



BEFORE THE COMPETITION COMMISSION OF INDIA

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

I.O. No. : 06/2023
Date of Institution : 13.07.2023
Date of Order : 17.08.2023

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 Lucknow Development Authority, Pradhikaran Bhawan, Viping Khand, Gomti Nagar, Lucknow-226010

Respondent

Coram: -

Smt. Ravneet Kaur, Chairperson
Dr. Sangeeta Verma, Technical Member
Sh. Bhagwant Singh Bishnoi, Member

ORDER

1. The present Report dated 12.07.2023, has been received from the Director General of Anti-Profiteering (hereinafter referred as "DGAP") after a detailed investigation as per the directions passed under Rule 133(5) of the Central Goods and Service Tax (CGST) Rules, 2017 (hereinafter referred as "the Rules") vide I.O. No. 25/2022 dated 30.09.2022 by the National Anti-Profiteering Authority (hereinafter referred as "NAA") in respect of project "Kritika & Swati Apartment" of M/s Lucknow Development Authority (hereinafter referred as "Respondent").

2. The DGAP vide his Report dated 12.07.2023 has inter-alia submitted the following: -
 - i) That as per the Uttar Pradesh RERA website the Respondent had total 44 projects registered with UPRERA. Out of these 44 projects, in respect of the project "Kritika & Swati Apartment", NAA vide I.O. No. 25/2022 dated 30.09.2022 had directed the DGAP to conduct re-investigation under Rule 133(4) of the Rules. 21 out of 44 projects had been started in the Post GST period, i.e., after 1st July 2017. Consequently, the Anti-profiteering provisions specified under Section 171 of the CGST Act, 2017 did not apply to these 21 projects and were therefore they were not taken for investigation.

 - ii) That remaining 22 out of 44 projects had commenced in the Pre GST period, i.e. before 1st July 2017. The Anti-profiteering provisions in

respect of these 22 projects undertaken by the Respondent have been examined in accordance with the Anti-Profiteering measures under Section 171 of the CGST Act 2017. The details of these 22 projects are provided below in Table 'A':-

Table-'A' (Projects Commenced in pre-GST)

Sr. No.	Promoter Name	Project name	RERA Reg. No.	Project start date	Project end date
1	Lucknow Development Authority	Srishti Apartment	UPRERAPRJ7378	15.05.2010	31.12.2018
2	Lucknow Development Authority	Smriti Apartment	UPRERAPRJ7448	27.06.2011	31.12.2019
3	Lucknow Development Authority	Sargam Apartment	UPRERAPRJ7268	03.12.2011	31.03.2018
4	Lucknow Development Authority	Panchsheel Affordable (G+3) & Panchsheel Multistory	UPRERAPRJ7344	24.12.2011	30.12.2018
5	Lucknow Development Authority	Parijat Housing	UPRERAPRJ7291	16.08.2012	29.06.2019
6	Lucknow Development Authority	Sopan Enclave Phase-1st Priyadarshini Yojna	UPRERAPRJ8850	28.03.2013	07.05.2017
7	Lucknow Development Authority	Anubhuti Apartment-Sector C/S Aliganj	UPRERAPRJ7281	28.03.2013	30.01.2018
8	Lucknow Development Authority	Srijan Apartment	UPRERAPRJ7236	28.03.2013	30.01.2018
9	Lucknow Development	Kabir Nagar Devpur Para Multistoried	UPRERAPRJ7120	01.03.2014	30.09.2020

	Authority				
10	Lucknow Development Authority	Poorva Apartment	UPRERAPRJ7042	21.07.2014	30.10.2017
11	Lucknow Development Authority	Phalguni Apartment	UPRERAPRJ6951	21.07.2014	31.12.2017
12	Lucknow Development Authority	Shravan Apartment, Sector- E Kanpur Road Yojna	UPRERAPRJ8621	12.01.2015	31.12.2017
13	Lucknow Development Authority	Aadra Apartment	UPRERAPRJ6779	01.04.2015	31.12.2017
14	Lucknow Development Authority	Janeshwar Enclave	UPRERAPRJ6319	25.10.2015	24.12.2018
15	Lucknow Development Authority	Mrigshira Apartment, Sector-P, Kanpur Road, Luckn	UPRERAPRJ8824	19.12.2015	31.12.2018
16	Lucknow Development Authority	Sopan Enclave Phase-IIInd At Priydarshini Yojna	UPRERAPRJ8782	25.02.2016	31.12.2018
17	Lucknow Development Authority	Aslesa Apartment, Kanpur Road Yojna	UPRERAPRJ13721	02.05.2016	31.12.2018
18	Lucknow Development Authority	Magha Apartment, Kanpur Road Yojna	UPRERAPRJ13717	02.05.2016	31.12.2018
19	Lucknow Development Authority	Bharnee Apartment, Kanpur Raod Yojna	UPRERAPRJ13719	20.06.2016	20.08.2018
20	Lucknow Development Authority	Rashmilok Apartment	UPRERAPRJ13570	01.09.2016	31.03.2019
21	Lucknow Development	Ratanlok Apartment	UPRERAPRJ13573	04.01.2017	31.03.2019

	Authority				
22	Lucknow Development Authority	72 Sugam Awas Rashmi khand	UPRERAPRJ17901	12.01.2017	31.03.2019

iii) That out of these 22 projects given in Table 'A' above, the DGAP has calculated profiteering to the tune of Rs. 25,96,79,276/- in respect of 14 projects of the Respondent. The details of these 14 projects and the profiteered amount calculated by the DGAP is given in Table 'B' below:-

Table 'B'

S. No.	Name of the Project	Profiteered Amount including GST@12% (In Rs.)	Benefit of ITC passed on to the home buyers	Further benefit of ITC required to be passed on including GST@12% (In Rs.)
1	Shrishti Apartment, Jankipuram Yojna	3,36,36,810	39,55,583	2,96,81,227
2	Smriti Apartment, Jankipuram Yojna	5,34,69,967	50,94,910	4,83,75,057
3	Sargam Apartment, Jankipuram Yojna	1,54,40,472	5,20,212	1,49,20,260
4	Purva Apartment, Kanpur Road Yojna	8,58,817	35,655	8,23,162
5	Phalguni Apartment, Kanpur Road Yojna	13,58,161	-	13,58,161
6	Sopan Enclave Phase-II at Pridarshini Yojna	1,46,80,356	2,75,219	1,44,05,137
7	Rashmi Lok, Shardanagar Yojna	1,89,62,315	2,77,442	1,86,84,873
8	Shravan Apartment, Kanpur Road Yojna	51,781	-	51,781
9	Janeshwar Enclave, Jankipuraam Yojna	10,02,99,134	-	10,02,99,134

10	Mrigshira Apartment, Kanpur Road Yojna	1,74,822	-	1,74,822
11	Ashlesha Apartment, Kanpur Road Yojna	8,51,267	-	8,51,267
12	Magha Apartment, Kanpur Road Yojna	12,58,794	-	12,58,794
13	Bharni Apartment, Kanpur Road Yojna	45,12,761	-	45,12,761
14	Ratan Lok, Shardanagar Yojna	1,41,23,819	-	1,41,23,819
Total		25,96,79,276	1,01,59,021	24,95,20,255

As mentioned in Table 'B' above, the DGAP has verified that out of the total profiteered amount, benefit of Input Tax Credit (ITC) amounting to Rs. 1,01,59,021/- to the homebuyers of the projects at Sr. No. 1, 2, 3, 4, 6 & 7 has been passed. Therefore, the Respondent is further required to pass on an additional Input Tax Credit benefit amounting to Rs. 24, 95, 20, 255/- to the home buyers in the above 14 projects.

- iv) That the DGAP has further submitted that for 08 out of 22 projects as mentioned in para 2(ii) above, the Respondent did not submit the relevant data/information required for investigation. The details of these 08 projects are given in Table 'C' below:-

Table 'C'

S. No.	Name of the Project	RERA Reg. No.	Project start date	Project end date
1.	Panchsheel Affordable (G+3) & Panchsheel	UPRERAPRJ7344	24.12.2011	30.12.2018

	Multistory			
2.	Sopan Enclave Phase-1st Priyadarshini Yojna	UPRERAPRJ8850	28.03.2013	07.05.2017
3.	Anubhuti Apartment- Sector C/S Aliganj	UPRERAPRJ7281	28.03.2013	30.01.2018
4.	Srijan Apartment	UPRERAPRJ7236	28.03.2013	30.01.2018
5.	Aadra Apartment	UPRERAPRJ6779	01.04.2015	31.12.2017
6.	Parijat Housing	UPRERAPRJ7291	16.08.2012	29.06.2019
7.	72 Sugam Awas Rashmi khand	UPRERAPRJ17901	12.01.2017	31.03.2019
8.	Kabir Nagar Devpur Para Multistoried	UPRERAPRJ7120	01.03.2014	30.09.2020

For the projects at Sr. No. 1 to 7 above, the Respondent has furnished only insufficient information e.g. Note sheet, bill of contractors etc. which were not sufficient to investigate the case and draw any conclusion. For the project at Sr. No. 8 shown in the Table above, the Respondent vide email dated 06.07.2023 has claimed that he has passed on ITC benefit to the home buyers *suo moto* but the Respondent failed to provide any documents showing the ITC amount availed or passed on, demand letters, sold area and total saleable area in support of his claim, therefore, his claim could not be verified.

- v) Therefore, the DGAP vide his report dated 12.07.2023 has concluded that profiteering in respect of 08 projects as mentioned in Table 'C' above could not be calculated as the Respondent did not submit required data/information.

vi) The Respondent has supplied construction services in the State of Uttar Pradesh only. The present investigation covered the period from 01.07.2017 to 30.09.2022.

3. The Commission has carefully considered the Report of the DGAP and the other material placed on record and finds that the DGAP has reported profiteering of Rs. 24,95,20,255/- in respect of 14 projects mentioned in Table 'B' above.
4. The Commission has also found that for remaining 08 out of 22 projects, as mentioned in Table 'C' above, the Respondent has not provided sufficient information/ data required for calculation of profiteered amount to be passed on to the homebuyers of those 08 projects and therefore investigation could not be completed in terms of Section 171 of the CGST Act, 2017 and the Rules made thereunder, during the period from July 2017 to September 2022. The DGAP may gather the relevant information by exhausting all the available resources including getting relevant information from the concerned Jurisdictional Commissioner as prescribed under the CGST Act, 2017 and Rule 132 of the CGST Rules, 2017.
5. In view of the above, fresh DGAP report is required in respect of 08 projects. Accordingly, DGAP is directed to further investigate these 08 projects under Rule 133(5) of the Rules and submit his report accordingly. The details of these 08 projects are given in Table 'D' below:-

Table 'D'

Sr. No.	Name of the Project	RERA Reg. No.
1.	Panchsheel Affordable (G+3) & Panchsheel Multistory	UPRERAPRJ7344
2.	Sopan Enclave Phase-1st Priyadarshini Yojna	UPRERAPRJ8850
3.	Anubhuti Apartment- Sector C/S Aliganj	UPRERAPRJ7281
4.	Srijan Apartment	UPRERAPRJ7236
5.	Aadra Apartment	UPRERAPRJ6779
6.	Parijat Housing	UPRERAPRJ7291
7.	72 Sugam Awas Rashmikhand	UPRERAPRJ17901
8.	Kabir Nagar Devpur Para Multistoried	UPRERAPRJ7120

6. A copy of this order be supplied to all the parties free of cost and file be consigned after completion.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Bhagwant Singh Bishnoi)
Member

Sd/-
(Sangeeta Verma)
Member

Certified Copy


(Jyoti Jindgar Bhanot)
Secretary, CCI

F. No. M/AP/34/Lucknow Development-OP/2022-Sectt/575-577 Dated: 17/08/2023
Copy To:-

1. M/s Lucknow Development Authority, Pradhikaran Bhawan, Viping Khand, Gomti Nagar, Lucknow- 226010.
2. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
3. Guard File.