



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

Case No. : 03/2024
Date of Institution : 30.11.2023
Date of Order : 05.02.2024

In the matter of:

1. Director General of Anti-Profitteering, 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 Miraj Entertainment Limited (Shalini Shivani Theatres), Besides Chaitanyapuri Metro Station, Kothapet, Hyderabad, Telangana-500060.

Respondent

Coram:-

1. Smt. Ravneet Kaur, Chairperson
2. Ms. Sweta Kakkad, Member
3. Sh. Deepak Anurag, Member

ORDER

1. The present Report dated 30.11.2023 had been received from the Director General of Anti-Profiteering (hereinafter referred to as the “DGAP”) on 04.12.2023 by the Competition Commission of India (hereinafter referred to as the “Commission”) after a detailed investigation under Rule 133(4) of the Central Goods & Service Tax (CGST) Rules, 2017 (hereinafter referred to as the “Rules”).
2. The Commission vide Para 3 to 10 of its Interim Order No. 05/2023 dated 17.08.2023 directed the DGAP to further investigate the matter under Rule 133(4) of the Rules as the Commission found both the previous Reports of the DGAP dated 31.12.2020 and 03.03.2023 contradictory.
3. In this regard the DGAP vide its report dated 31.12.2020 has conducted a detailed investigation for alleged profiteering by the Respondent in supply of “Services by way of admission to exhibition of cinematography films”. In respect of which vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 GST rate was reduced from 28% to 18% w.e.f. 01.01.2019. The DGAP vide its report dated 31.12.2020 calculated profiteering to the tune of Rs. 12,83,999/- for ‘Regular’ category of tickets sold by the Respondent and profiteering to the tune of Rs. 84,18,946/- in ‘Exception’ category of tickets sold by the Respondent.
4. Vide NAA order No. 21/2022 dated 20.06.2022, the NAA determined profiteering of Rs. 12,83,999/- for ‘Regular’ category of tickets of the Respondent and accordingly, the Respondent was directed to deposit the amount of Rs. 6,41,988/- in Central Consumer welfare fund (CWF) and Rs. 6,41,988/- in the Telangana State CWF in the ratio of 50:50 as per the provisions of Rule 133(3) of the CGST Rules, 2017 along with 18% interest. The Respondent was further directed to refund an amount of Rs. 11.73/- each to both the complainants, Sh. Santosh and Sh. Sundeep. Further, vide Para 10 to 17 of the said order dated 20.06.2022, the NAA under the provisions of Rule 133(4) of the Rules,

2017 directed the DGAP to further investigate the matter relating to 'Exception' category of tickets involving profiteering of Rs. 84,18,946/-.

5. Thereafter, the DGAP has reinvestigated the matter under Rule 133(4) of the CGST Rules 2017 in compliance with the directions contained in NAA's Order dated 20.06.2022 and vide its report dated 03.03.2023 reported that Section 171(1) of the CGST Rules, 2017 has not been contravened by the Respondent in respect of 'Exception Category' tickets.
6. However, the Commission found both the Reports dated 31.12.2020 and 03.03.2023 of the DGAP contradictory and therefore vide its Interim Order No. 05/2023 dated 17.08.2023 directed the DGAP to reinvestigate the matter in respect of 'Exception Category' tickets under Rule 133(4) of the CGST Rules, 2017.
7. The DGAP submitted its report dated 30.11.2023 to the Commission after reinvestigation under Rule 133(4) of the CGST Rules, 2017. The Findings of the DGAP's report dated 30.11.2023 on the points raised in the CCI's Interim Order No. 05/2023 are as follows:-
 - a) That the DGAP has quantified profiteering in the first report dated 31.12.2020 in respect of 'Exception Category' by taking the basic rate of admission for all other categories that existed prior to the reduction in the rate of GST. The verification of the claim of the Respondent about non-existence of any such category as 'Exception Category' was not warranted by DGAP while preparing its first report dated 31.12.2020.
 - b) Para 4 of the said order sought "*the present report of the DGAP does not explain why profiteering was calculated from 01.01.2019 to 30.04.2020 when the Respondent had reduced the rate of tickets w.e.f. 04.02.2019 in 'Regular Category'*". The DGAP stated that this was the fundamental flaw in the first report dated 31.12.2020 which has been corrected in its report dated 03.03.2023.

- c) That the DGAP report dated 31.13.2020 suffered from the defect of calculating profiteering even after date of commensurate reduction in the price of tickets by the Respondent.
- d) Para 6 of the said order sought “*why Exception Category’ of tickets was mentioned in earlier DGAP report dated 31.12.2020 when there was no such category and what were the grounds on the basis of which such a category was created*”. The DGAP submitted that the term ‘Exception Category’ for such six specific movies for which application for rate revision was made by the Respondent to the Licensing Authority has been coined by DGAP report dated 31.12.2020 by categorising them as ‘Exception Category’. It was done only to distinguish them from normal category of tickets.
- e) The difference in the present findings of the Second Report dated 03.03.2023 as compared to the first report dated 31.12.2020 is attributed to certain conceptual as well as fundamental flaws in the first report. This had resulted in quantification of profiteering of Rs. 84,18,946/- till April 2020 for ‘Exception Category’ of movies despite commensurate reduction in prices by the Respondent from 04.02.2019. This has been corrected in the report dated 03.03.2023.
8. This Commission has carefully gone through the Reports dated 31.12.2020, 03.03.2023 and 30.11.2023 furnished by the DGAP as well as all the other material placed on record and finds that the Respondent has reduced the rate of GST from 28 % to 18% on all categories of tickets w.e.f 04.02.2019 and hence he has passed on the benefit of rate reduction by charging commensurate prices.
9. The Commission also finds that there is no Exception category tickets and it was a term coined by DGAP in its report dated 31.12.2020. It referred to six specific movies for which application for rate revision was made by the Respondent to the Licensing Authority. The Respondent had sold ‘Exception Category’ cinema tickets w.e.f. 23.08.2019 only. The Respondent has charged GST @ 18% on the

Exception category tickets w.e.f 23.08.2019 and hence no benefit of tax reduction was required to be passed on these tickets. As 'Exception category' tickets (only six specific movies) were sold after the implementation of Notification No. 27/2018, dated 31.12.2018, their prices cannot be compared with the tickets sold in pre-GST rate reduction period as the tickets of Exception category were not sold in pre-GST rate reduction period.

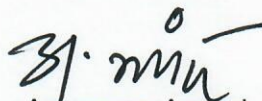
10. The Commission further finds that the Respondent has increased the base prices of 'Exception' category of tickets after about 6 months w.e.f. 23.08.2019 after he had passed on the benefit of tax reduction w.e.f. 04.02.2019 and further charged GST @ 18%, hence this increase in the base prices does not attract the Anti-Profiteering Provisions.
11. As the Complainants Sh. Santosh and Sh. Sundeep have purchased 'Regular' category of tickets, profiteering amount has already been passed on to them vide NAA order No. 21/2022 dated 20.06.2022.
12. In view of the above findings, the instant case does not fall under the ambit of Anti-Profiteering provisions of Section 171 of the CGST Act, 2017. Accordingly, the proceedings initiated against the Respondent under Rule 133 (4) of the CGST Rules, 2017 are hereby dropped.
13. A copy of this order be supplied to all the parties free of cost and file of the case be consigned after completion.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Deepak Anurag)
Member

Sd/-
(Sweta Kakkad)
Member

Certified Copy


Anupama Anand
(Secretary, CCI)

File No. 22011/NAA/09/Miraj Cinemas/2021/Pt. II / 138-142

Date:- 05.02.2024

Copy To:-

1. M/s Miraj Entertainment Ltd .(Shalini Shivani Theatres), Besides Chaitanya puri Metro Station, Kothapet, Hyderabad, Telangana-500060.
2. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
3. The Chief Commissioner of Central Goods & Service Tax, Hyderabad Zone GST Bhavan, I.B.Stadium Road, Basheer Bagh, Hyderabad, Telangana-500 004.
4. The Commissioner of Commercial Taxes Department, C.T Complex, Nampally, Hyderabad, Telangana-500 001.
5. Guard File.