

GSTAT
Single Bench Court No. 1

NAPA/84/PB/2025

DGAP

.....Appellant

Versus

PUMA REALTORS PVT LTD, OREO CITY

.....Respondent

Counsel for Appellant

Counsel for Respondent

Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President

Counsel for Appellant

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA070825000057H

Date of order : 26/08/2025

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - NAPA/84/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Puma Realtors Pvt. Ltd.	
5.	Order appealed against -	

	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing – 26 / 08 / 2025, 12 / 08 / 2025, 10/ 07 /2025	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - SCN issued by the DGAP is set aside and the proceeding is closed.	
Summary of Order		
9.	Type of order : Closure Report	

Place :DELHI PB

Date : 26.08.2025

DGAP Vs. M/s Puma Realtors Pvt. Ltd., Oreo City.

Case No-NAPA/84/PB/2025

Date- 26.08.2025 (Final Order)

The matter was taken up today in physical mode. Shri Anurag Gupta, Inspector appeared on behalf of the DGAP.

On 10.07.2025, it was brought to our notice by the Departmental Representative namely Suraj Kumar Roy, Learned Additional Assistant Director assisted by Shri Anurag Gupta, Inspector and Ms. Geetanjali Ahuja, Inspector, DGAP that M/s Puma Realtors Pvt. Ltd. was declared insolvent and new company

namely M/s One Group Developers Pvt. Ltd has taken over the ownership of assets and liabilities of the company since 01.06.2021.

It was therefore, submitted before us that investigation is in a limbo. In view of the aforesaid submissions, the Tribunal directed the DGAP take appropriate legal opinion in this connection. In response to such direction, legal opinion has been sought by Pr. DG, DGAP from Shri Zoheb Hossain, Advocate-on-Record and Senior Standing Counsel for the Income tax Department.

The Pr. DG has sought legal opinion of the Senior Standing Counsel of the Income Tax Department and Advocate on Record as named above on the following issue;

- a. Whether the due benefit of Input Tax Credit that had accrued consequent to the introduction of Goods & Services Tax Act, 2017 is to be passed on to the eligible recipients who are voiceless, unorganized and scattered will also come under the ambit of the IBC as amended from time to time, which could not be quantified due to non-submission of the requisite documents by the Noticee for completion of the investigation prior to passing on the NCLT final order dated 01.06.2021.
- b. Whether the approved Resolution Applicant i.e. consortium of M/s. APM Infrastructure Pvt. Ltd. &

M/s Once City Infrastructure Pvt. Ltd. can be made accountable for passing on of the benefit of ITC (profiteered amount) to the eligible recipient under Section 171 of the CGST Act, 2017.

In reply to such queries made by the Pr. DG, the Learned Senior Standing Counsel who is also representing the DGAP on different matters before the Delhi High Court has given its given specific reasons and opinion as follows;

- a. The insolvency and Bankruptcy Code, 2016, in Section 238 has a non-obstante provisions which states that:

“The provisions of this code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect having effect by virtue of any such law.”

Thus, even if it is argued that the provisions of Section 171 of the CGST Act, 2017 have been violated, the provisions of IBC, 2016 will nonetheless prevail.

- b. The Hon’ble Supreme Court in Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta and Ors (MANU/SC/1577/2019) observed that the Resolution Applicant should be aware of the claims and should not suddenly be burdened with undecided claims, stating as follows:

For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of Code. A successful resolution Applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution Applicant who successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution Applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution Applicant does on a fresh slate, as has been pointed out by us hereinabove.

- c. Further, the Hon’ble Supreme Court in Ghanashyam Mishra and Sons Pvt. Ltd. through Authorized Signatory v. Edelweiss Asset Reconstructions Company Ltd. through the Director (2021) SSC On Line SC 313 has clearly held that no claims/dues may be entertained after the approval of the

Resolution Plan. The Hon'ble Supreme Court upheld the decisions in **Ultra Tech Nathdwara Cement Ltd v. Union of India 2020 SSC OnLine Raj 1097** and **Electro steels Limited v. State of Jharkhand 2020 SCC OnLine Jhar 454** and further held as follows:

“CONCLUSION:

95. In the result, we answer the question framed by us as under:

i. **That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen** and will be binding on the corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stake holders. On the date of approval of resolution plan by the Adjudicating Authority, **all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;**

II. 2019 amendment to Section 31 of the I & B Code is clarifactory and declaratory in nature and therefore will be effective from the date on which I & B Code has come into effect:

III. Consequently, **all the due including the statutory dues owed to the Central Government, any State Governments or any local authority, if not part of the resolution**

plan, shall stand extinguished and not proceedings in respect of such dues for the period prior to the date on 31 could be continued”

Thus, the position of law that is that once a resolution plan is approved under the IBC, 2016 all claims and dues will stand extinguished if they were not part of the Resolution Plan.

- d. The Hon’ble NCLT, Delhi vide order dated 01.06.2021 approved the Resolution plan of the Applicant consortium of M/s. APM Infrastructure Pvt. Ltd. and M/s Once City Infrastructure Pvt. Ltd., whereby the moratorium ceased to have effect. Thus, the period to submit the claim lapsed without the Resolution Professional addressing the claims made herein.
- e. Therefore, the NAA’s claim would stand extinguished as it was not included in the Resolution plan approved by the Adjudicating Authority vide Order dated 01.06.2021.
- f. In light of the above discussion, it can be concluded that the claims/benefit that could not be quantified because of the non-submission of the documents by M/s Puma Realtors will stand extinguished and the Resolution Applicant cannot be held accountable for the action of M/s puma Realtors in not passing of the

benefit of ITC to the eligible recipient under Section 171 of the CGST Act, 2017 after approval of the resolution plan.

In view of such submissions, the Pr. DG, DGAP has forwarded the written documents to this Tribunal and has requested to pass the appropriate order in this matter.

In view of the clear legal position, as submitted through the written opinion quoted above, we are in agreement with the submissions made by the Sr. Standing Counsel and, therefore, don't find any reasonable or plausible cause to proceed further in the matter.

In that view of the matter the proceeding on Section 171 is hereby closed. The notice issued by the DGAP is hereby set aside. Final Order be communicated to the parties.

(Dr. Sanjaya Kumar Mishra)
President, Principal Bench,
GSTAT-NAA

Digitally signed by SANJAY KUMAR MISHRA
Date:27-08-2025 16:00:45 PM