GSTAT

Single Bench Court No. 1

NAPA/3/PB/2025

DGAP **.....Appellant**

Versus

MALLIKARJUNA CINEMA HALL,70MM HYDERABAD **.....Respondent**

Counsel for Appellant

Counsel for Respondent
SWAPNIL SRIVASTAV

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. : ZA070925000015H **Date of order :** 12/09/2025

1.	GSTIN/Temporary ID/UIN - 36ABDFM1219K1ZC	
2.	Appeal Case Reference no. - NAPA/3/PB/2025	Date - 20/12/2019

3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Mallikarjuna Cinema Hall,70MM Hyderabad , raju@mandmadvisory.com , 9849264548	
5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 12/09/2025 03/09/2025 20/08/2025 23/07/2025 15/07/2025 01/07/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - Respondent is directed to deposit an amount of Rs. 16,50,166/- only along with the interest at the rate 18 % for not passing on the benefit of reduction of the rates of GST on tickets sold for admittance in to the Theatre for exhibition of cinematography films to the consumers.	
Summary of Order		
9.	Type of order : Deposit in Consumer Welfare Fund/s	

Place :DELHIPB

Dated: 12.09.2025

Final Order

1. Cinema as is popularly called by Indians with reference to motion pictures is not considered only a source of entertainment. It is also considered as a part of the mass media, wherein, public opinion can changed or influenced. Internationally motion pictures are considered also to be an instrument of expression of creative arts for the purpose of entertainment. With time motion pictures-cinemas have expanded into different fields especially with invent of internet, cable TV and recent phenomenal of Over-the-Top (OTT) services.

2. Social media platforms have also seen spurt in movie making both at immature and semi-professional levels. This case is an interesting combination of motion pictures and Goods & Services Taxes. A dispute arose regarding the charging of prices by a cinema hall owner who has the license for exhibition of Cinematography films.

3. A proceeding has been initiated and we are to decide whether there has been a profiteering to the tune of Rs. 16,50,166 /- only by not passing on the reduction of rates of GST, on cinema tickets for exhibition of cinematography films, to the consumers.

4. The facts of the case can succinctly stated as follows:-

(i) On 01.07.2017, the Central Goods & Services Tax Act, 2017, hereinafter referred as CGST Act, came into force. Initially, the rates of GST on the tickets for admission to the theatres exhibiting cinematography films were 28% for the

price range of Rs. 101/- or more. It was 18% for the tickets has been priced at Rs. 100 or less per person, per show.

(ii) On the recommendation of the GST Council, the rates were reduced from 28% & 18 %, to 18% & 12% for the aforesaid rates of tickets w.e.f. 01.01.2019 vide notification no. 27/2018- CT (Rate) dated 31.12.2018.

5. On 29.03.2019, an application was received by the Standing Committee of the Anti-Profiteering wing of GST Regime from the Pr. Commisioner, Medchal Commissionerate, Hyderabad, *inter-alia* alleging profiteering by the Respondent. The Standing Committee after examining the same referred the matter to the DGAP on 28.06.2019 directing it to conduct a detailed investigation in respect of the above allegation. The said report was received by National Anti-profiteering Authority (NAA) on 20.12.2019 through the DGAP. The Notices were issued by the NAA to the Respondent dated 18.12.2019 by erstwhile NAA under Rule 129(3) of the CGST Rules, 2017.

6. However, the Respondent filed the Writ Petition No. 3087/2020 in the High Court of Telangana at High Court, wherein the Notices issued by the erstwhile NAA were challenged. Interim Orders were passed, however, the same were vacated on 03.06.2021. The Respondent was given adequate opportunity of producing documents, showing cause and also inspection of documents, but Respondent failed to avail such opportunities. Finally, DGAP submitted its Report

alleging that there has been a profiteering Rs. 16,50,166/- for the period of 01.01.2019 to 30.06.2019.

7. The Respondent has filed Written Submissions on different dates, finally on 15.04.2025, written submissions along with several annexures were submitted at the time of advancing arguments by the Learned Counsel of the Respondent.

8. It is submitted by the Respondent that maximum tickets prices in the State of Telangana are set by the State Government through the Licensing Authority as per the provisions of the Telangana Cinemas (Regulation) Act, 1955, hereinafter referred as Cinemas Act. The Respondent further submitted that according to the Section 9-A of the Cinemas Act, a cinema hall failing to comply with the prices set by the Licensing Authority are liable to prosecution and punishment. In furtherance of such powers, the State Government promulgated a Government Order dated 26.04.2013 being G.O.M. No. 100 , Home (General A.I) Department ("2013 Government Order") whereby maximum prices for tickets in cinema halls were set by it.

9. It is further case of the Respondent that the Government Order was challenged by Cinema owners by filing Writ Petition No. 19046 of 2014 and vide its Order dated 31.10.2016, the Hon'ble High Court of Telangana quashed the 2013 Government Order and directed the State Government to set up a committee to study the issue and thereafter promulgate fair prices. The relevant part of the order was relied upon by the Respondent in its defence against allegation

levelled by the DGAP dated 31.10.2016. We consider it appropriate to quote the same:-

> "10…..
>
> (ii) *Both the Government are directed to constitute their respective committees headed by the respective Principal Secretaries for Home. In so far as the other members of the Committees are concerned. It is left open to the respective Principal Secretaries for Home to choose the exhibitors, distributors and other member to participate in the committee so as to adjudicate the issues involved in all the writ petitions.*
>
> *…*
>
> *(v) The petitioners - theatres are permitted to run their respective theatres by collecting their proposed fares. However, it is made clear that the petitioners shall inform to the Authorities concerned as to the ticket rates, which they intend to collect in respect of all classes till adjudication of the issues in question by the respective committees.*
>
> *…*
>
> *(vii) It is made clear that the petitioners in the writ petitions, in which there are no such earlier*

interim orders, shall approach the authorities concerned and inform them as to the rates of the tickets, which they intend to collect.

10. It is, therefore, contended that the Hon'ble High Court of Telangana seized of the issue of ticket prices, it had also passed an order granting the right to cinema hall owners to set prices of their tickets as long as they informed the relevant authorities regarding the same. In compliance with the order of the High Court as aforesaid, the State Government set up a committee to study the issue, and thereafter government Order bearing No. 75 (Home General Department). On 23.06.2017 issued certain directions fixing maximum ticket prices for different categories of cinema halls, viz single screens, multiplexes, etc for different municipal zones.

11. The Respondent which is single screen cinema is stated to have liberty to set the maximum ticket price for AC and Air Cooled Theatres at Rs. 120/- for higher class and Rs. 40/- for lower class. Thereafter, cinema owners have approached the Hon'ble High Court of Telangana from time to time and seeking permission for varying prices on account of popularity and demand of the movies. It was, therefore, stated by the respondent that during the period of the profiteering, i.e. from 01.01.2019 to 30.06.2025, the respondent was selling its ticket in compliance with the ticket prices set by the State Government. As narrated above, which was set with the explicit permission of the High Court of Telangana.

12. Thus, it is submitted that the profit earned by the Respondent while selling tickets at the rate set by the State government with the explicit permission of the High Court of Telangana cannot be considered as unfair profit. It is also stated by the Respondent that prices of tickets for entrance into cinema theatres are set after taking into consideration by the expenses incurred by cinema owners as well as the variety of other commercial factors, including but not limited to inflation, popularity of certain movies over other, rise of OTT platforms, and increasing rent. It is the further allegation of the Respondent that the DGAP is completely silent on this aspect.

13. The second limb of contention of the Respondent is that the DGAP has dismissed the exemption of Rs. 3/- per ticket from GST as tax-free maintenance charges on the basis of an erroneous interpretation of the Government Order. It is stated as per the Government order that the State government permitted cinema owners to enhance the tax-free maintenance charges from Rs. 3/- to Rs. 7/- for AC and Air Cooled Theatres and from Rs. 2/- to Rs. 5/- for non-AC Theatre. It was classified as a "tax free maintenance Charge". The Respondent claim that as it runs a AC theatres, it is entitled to charge a sum of Rs. 7/- per ticket as tax-free maintenance charges. However, it has continued to charge a sum of Rs. 3/- per ticket in order to ensure that its prices remain competitive. The DGAP, allegedly, has not taken it into a consideration, therefore, committed an error.

14. The third limb of submissions of Respondent is that the DGAP has misconstrued the scope and ambit of Section 171 of the CGST Act. In expanding this third limb of submission, the Respondent

would submit that the provision has been misinterpreted by the DGAP inasmuch as it has interpreted it to mean that any reduction in the rate of tax must be passed in its entity to the recipient of goods and services. Respondent would further submit that it is not the case, as is made evident by the use of the word "commensurate". The Respondent would further submit that if the intention of the legislature to pass on the benefit of any reduction of tax on an as is basis, they would not have use the word "commensurate". Use of word commensurate indicates that the legislature has promulgated a law which permits the providers of goods and services to take factors, other than the reduction in the tax rate, for providing benefit of such reduction to the recipient of goods and services. Such other facts may include inflation, increase in expenses towards providing goods and services, etc. As per the Respondent, the real purport of Section 171 of the CGST Act is that providers of goods and services are at liberty to take into account factors other than just a reduction in the rate of tax at the time of passing on the benefit of any reduction of taxes to the recipient of goods and services.

15. Re-iterating its earlier submissions, the Respondent would further submit that the it charged its customers appropriate prices as per the decision of the State Government and that it has also not charged higher Rs. 7/- as tax free maintenance charges in terms of 2017 Government order.

16. It would submit that the DGAP failed to take into account the period preceding the reduction of taxes to adequately contextualize

whether the Respondent has in fact indulged in gaining unfair profits or not.

17. In paragraph 25 of the written submissions submitted before us by the Advocate for the respondent on 15.04.2025 it is specifically mentioned that there have been unfairly being penalised for attempting to realize some profits in a high competitive market. We consider it to be relevant piece of admission and hence we consider it appropriate to quote the exact words used in the written submissions submitted before us.

> "**25**. It is the Respondent's humble submission that this approach of the DGAP, rather than being anti-profiteering is anti-profit. The DGAP's approach unfairly penalizes the Respondent for attempting to realize some profits in a highly competitive market. The reduction of tax rate was an opportunity for the Respondent to recover some costs while keeping the prices charged from the customers constant. This allowed the Respondent to slightly increase its revenue while staying competitive. In doing so, the DGAP has completely misconstrued the meaning and ambit of the word "commensurate"". (underlined to place emphasis)

The learned counsel for the Respondent has also relied upon the observations made by the Hon'ble High Court of Delhi in the case of **Reckitt Benckiser India Pvt. Ltd. & Ors. Vs. Union of India & ors SCC Online Del 588**.

18. This matter was heard on 23.07.2028 and reserved for judgement to be pronounced on 20.08.2025. However, a question arose before the Tribunal that the jurisdiction of the tribunal or the authority to direct the payment of interest at the rate of 18% on the profiteered amount, was inserted in clause (c) of Sub Rule (3) of Rule of 133 of the CGST Rules, 2017 vide Notification No- 31/2019-Central Tax, dated 28.06.2019, with effect from 28.06.2019. This issue was never been decided by this Tribunal or any of its preceding Authorities i.e. erstwhile NAA or CCI.

19. Since we thought that it is a question of seminal importance, we directed to both parties to address the Tribunal on this issue on 20.08.2025. However, on that day, learned counsel for the Respondent was not present. We considered it appropriate to grant another opportunity to the learned counsel to advance his arguments on this issue and, therefore, the matter was again listed on 03.09.2025. On 03.09.2025, learned counsel appeared and submitted that provision for imposition of interest on the profiteered amount is prospective as it is an enabling provision. He contended that it is not a Clarificatory or Curative piece of delegated legislation. In this connection, he relied upon **C.I.T. (C-1) (Central-1) New Delhi Vs. Vatika Township Pvt. Ltd., (2015) 1 SCC 1.**

20. Specifically, issue has been raised by the Learned Counsel of the Respondent by virtue of Notification No. 71/2019 dated 30.12.2019, that the amendment to section 133 came into force w.e.f, 01.04.2020 and not from 28.06.2020. So the Respondent is not liable to any interest on alleged profiteering amount, as the period under investigation is beyond that date.

21. Thus, in consideration with aforesaid facts and submissions the following issues of law and also of law and fact arise in this case:-

(i) Whether, the Respondent M/s. Mallikarjuna Cinema Hall, 70 MM Hyderabad, profiteered a sum of Rs. 16,50,166/- only by not reducing the prices of tickets for admittance to the theatre upon reduction of the rates of the GST for the period from 01.01.2019 to 30.06.2019?

(ii) Whether the orders passed by the Hon'ble High Court of Hyderabad and consequent Government's order passed by the State of Telangana fixing the maximum price tickets and giving a discretion to the theatre owners or of fixing the prices would absolve the Respondent from any liability arising out of an allegation of profiteering because of the fact that it has not reduced the price it offered to the ultimate consumers?

(iii) Whether there has been any play of market dynamics and factors not in the control of the Respondent which is led to a denial of commensurate reduction of prices to the ultimate consumer?

(iv) Whether the provision of imposing interest at the rate of 18% on the profiteered amount as per the amended clause (c) of Sub Rule 3 of Rule 133 of CGST Rules, 2017 is retrospective in effect or prospective in effect? If it is prospective in effect than whether it is applicable from 28.06.2019 to 01.04.2020?

(v) What should be the order of the Tribunal acting as the authority under Section 171 of the CGST Act?

22. Coming to the first question mentioned above, we note that basically there are three categories of tickets viz., Maharaja Circle-Rs. 118 & 100, Dress Circle-Rs. 70 and First Class-Rs. 30 sold by the Respondent during the pre-rate reduction period effective from 01.12.2018 to 31.12.2018.The price consumer has to pay for these three categories of the tickets are Maharaja Circle- Rs. 130, 120 & 100, Dress Circle-Rs. 80 & 70 and First Class-Rs. 40 & 30. The Respondent was also collecting a sum of Rs. 3/- per ticket as tax free maintenance charge. Thus, the price inclusive of all taxes and charges of tickets for three categories like Maharaja Circle- Rs. 115 & 97, Dress Circle-Rs. 67/- and for First class Rs. 27/- in the pre-rate reduction period. The price of these three categories of tickets in the post-rate reduction period w.e.f. 01/01/2019 are Maharaja Circle- Rs. 127, 117 & 97, Dress Circle-Rs. 77 & 67 and First Class-Rs. 37 & 27 after the post-rate reduction. It is also borne out form the record and submission made in the report of the DGAP that there is no law that enable the Respondent not to pay GST on the amount of Rs. 3/- collected as tax free maintenance charge per ticket. Therefore, the

amount of Rs. 3/- collected as tax free maintenance charge per ticket, need to be taken into consideration by the Respondent while discharging their output tax liability and also for determination of price of ticket when the GST rate was reduced from 28% to 18% from 18% to 12% w.e.f. 01.01.2019.

23. The following tabulated has relied upon by the DGAP as well as the officer assisting in the case which would clarify the reduction of the rate of GST from 28% to 18% and from 18% to 12% have not resorted in a commensurate reduction in price because of the raising of the base price by the Respondent. It is presented in the Table A mentioned below:-

Table-A

S No	Admission ticket	01.12.2018 to 31.12.2018			01.01.2019 to 30.06.2019					
		Price of Ticket inclusive of tax (in Rs.)	GST Rate (%)	Amount Charged i.e Base Price (in Rs.)	Price of Ticket inclusive of tax (in Rs.)	GST Rate (%)	Amount Charged i.e Base Price (in Rs.)	Commensurate Base Price (in Rs.)	Amount which was to be Charged (in Rs.)	Increase in base price of the ticket
A	B	C	D	E=[C/ 128% or 118%]	F	G	H	I	J=(I*118% or 112%)	K=H-I
1	Maharaja Circle (Blockbuster movie)	118	28%	92.19	130	18%	110.17	92.19	108.78	17.98
					120		101.69	92.19	108.78	9.51
	Maharaja Circle (Other Movie)	100	18%	84.75	100	12%	89.29	84.75	94.92	4.54
2	Dress Circle	70	18%	59.32	80	12%	71.43	59.32	66.44	12.11
					70		62.50	59.32	66.44	3.18
3	First Class	30	18%	25.42	40	12%	35.71	25.42	28.47	10.29
					30		26.79	25.42	28.47	1.36

24. This method of calculation as depicted in the table A above is very much part of the DGAP's report and it has never been denied or disputed by the Respondent. They have not denied this calculation and the figures reflected in table A. They have not denied disputed the method of calculation. They have also not denied the second process of investigation, whereby, the DGAP has proceeded to quantify the amount of profiteering made by the Respondent. They have examined the outwards supplies for the period 01.12.2018 to 30.06.2019 submitted by the Respondent. They found out that profiteering during the period from January, 2019 to June, 2019 from the sale of ticket in 3 categories mentioned in Table A above amounted to Rs. 11,11,212/- only for Maharaja Circle, Rs. 3,55,141/- only for Dress Circle and Rs. 1,83,812/- for the First class. The total amount of profit earn by the Respondent in violation of Section 170, CGST Act has been reflected in Table B below:-

Table-B

S No	Admission ticket	01.01.2019 to 30.06.2019						
		Base Price charged (Rs.)	Commensurate Base Price (Rs.)	Excess amount charged per ticket (Rs.)	Excess tax charged per ticket @ 18% or 12%	Total Profiteering per ticket (Rs.)	Total tickets sold	Total Profiteering (including tax @18%) (in Rs.)
A	**B**	**C**	**D**	**E= (C-D)**	**F= (E*18% or 12%)**	**G= (E+F)**	**H**	**I= (H*G)**
1	Maharaja Circle (Blockbuster Movie)	110.17	92.19	17.98	3.24	21.22	18,849	3,99,952
		101.69	92.19	9.51	1.71	11.22	27,696	3,10,715
	Maharaja Circle (Other Movie)	89.29	84.75	4.54	0.54	5.08	78,774	4,00,546
2	Dress Circle	71.43	59.32	12.11	1.45	13.56	17,962	2,43,553

		62.50	59.32	3.18	0.38	3.56	31,351	1,11,588
3	First Class	35.71	25.42	10.29	1.23	11.53	11,954	1,37,775
		26.79	25.42	1.36	0.16	1.53	30,180	46,037
Grand Total								16,50,166

25. It is also noted here that neither in their written submission nor in the course of argument the learned Counsel ever disputed this calculation reflected in Table B. They have also not disputed the method of calculation or the figures reflected therein. Thus, as far as this calculation aspect of the case is concerned, there is nothing decided by this Tribunal. We may note here, at the cost of repetition that there is no dispute regarding said facts like reduction of rate of GST from 01.01.2019. There is also no dispute that the Respondent did not have a commensurate reduction in prices of the ticket for admittance to the theatre. What is in dispute is that such non-passing of the benefit is control by market forces and certain special and local laws and judgment passed by the High Court of Telangana coupled with the fact that the Government also passed orders which are being discussed during course of this final order. There is no dispute or denial of the method of calculation, as depicted in Table A and Table B, by the Respondent.

26. Thus, it can be seen, for the purpose of elucidating, Maharaja Circle Blockbuster Movie, the ticket price was Rs. 118/- before the reduction of rate of GST i.e. when it was at 28%.So the base price was Rs. 92.19. However, from 01/09/2019 till 30/06/2019, the said Maharaja Blockbuster Movie was charged with Rs. 130 or Rs. 120 per

ticket, i.e. per person for one show. It has the GST incidence @ 18%, so the amount charged i.e. base unit price is Rs. 110.17 and 101.69 respectively. However, there should have been a commensurate reduction of base price equivalent to the pre-reduction period to be Rs. 90.19 to Rs. 92.19 respectively. Thus, there was an increase in the base price for these two types of tickets in Maharaja Circle Blockbuster movie amounting to Rs. 17.98 and Rs. 9.51 respectively. Similarly, other increase in amount of bases prices have been calculated for to be Rs. 4.54 for Dress Circle, Rs. 12.11 to Rs. 3.18, for first-class, respectively. This aspect of the case is not been stoutly denied but we feeble attempt has been made to the effective that the amount of the base price has been determined by price dynamics, demand and supply etc., it is true that Section 171 of the CGST Act does not require the supplier to pass on the benefit of reduce tax rate and benefit of Input Tax Credit, and that such passing on is to be carried out by way of commensurate reduction of price of Goods and Services. Accordingly, costing or fixation of priceare always amenable to and depend uponmarket forces and dynamics of the industries in which the supplier is operating. Section 171 reads as follows:-‘

Section 171 and sub-section (1) reads as follows:-

> “Any reduction in rate of tax on any supplier of goods or services orthe benefit of Input Tax Credit shall be passed on to the Recipient by way of commensurate reduction in prices.”

In interpreting this provision the Hon'ble High Court of Delhi, in the case of **Reckitt Benckiser India Pvt. Ltd. Vs. Union Of India** and other cases, 2024 SCC Online Del 588, has held that the supplier is required to pass on the benefit of reduced tax to the consumer and such passing is to be carried out only by way of commensurate reduction of prices ofthe Goods and Services. However, the supplier is at liberty to set his base price and vary them in accordance with the relevant commercial and economic factors or any applicable laws. However, such exercise of raising the prices based on commercial factors should be a genuine exercise of rising of prices and not a mere pretence. The Hon'ble Delhi High Court further held that if there is any variance on account of other factors, such as any cost necessitating the setting of such reduction of price, the same needs justified by the supplier. It was further held that the inherent presumption that there must necessarily be reduction in prices of the Goods and Services is a rebuttable presumption. It is clarified that if the suppliers is to assert its reasons for upsetting the reduction, it must established the same on cogent basis and must not use it merely as a devise to circumvent statutory implications or reducing the prices in a commensurate manner contemplated under Section 171 of the CGST Act. The Delhi High Court, further, held that Section 171 of the CGST Act has been incorporated with the intent of creating a framework that ensures that the benefit reaches the ultimate consumers. There cannot not be any room allowing unjust retention of benefit of reduction in the rate of tax or benefit of Input Tax Credit with the manufacturer, supplier or distributers.

27. In this case if we have already noted that there is no dispute regarding the fact that there has been a reduction of the rate of GST on tickets for admittance into a theatre exhibiting cinematographic film from 28% to 18% and from 18% to 12%, for different slabs. There is also no dispute on the side of the theatre owner or the Respondent that there has been no commensurate reduction in price of the tickets. Rather that there has been an increase in the price of the tickets. In fact, at paragraph 25 of the written submission made by the Respondent through his Counsel, as we have referred to above in the preceding paragraph, the Respondent has categorically admitted that it has made an attempt to recover certain profit. This is a clear admission of the question 'whether it has profiteered or not'. Law is well settled in this context. Admission is substantive evidence. It constitutes the best evidence that the opposite party can rely upon. Those admissions are not always conclusive and may be explained a way. We take note of the judgments of the Honorable Supreme Court, in Awadh Kishore Das vs. Ram Gopal, AIR 1979 SC 861, and Nagubai Ammla Vs. B. Shyama Rao AIR 1956 SC 953. Thus admissions if true and clear are the best proof of fact admitted. Moreover, in the case of Nagin Das, Ram Das Vs. Dalpat Ram, Ichcha Ram allies Brij Ram & others, AIR 1974 SC 471, the Supreme Court has held that admissions, if true and clear are by far the best proof of fact admitted. The Supreme Court went on to make a critical distinction between judicial admissions or admissions in pleadings/ compromise and evidentiary admission. Judicial admissions are under Section 58 of the Indian Evidence Act, 1872 corresponding to Section 53 of the Bharatiya Sakshya

Adhiniyam, 2023. It provides that facts admitted need not to be proved. Such judicial admissions are binding on the parties who make them and constitute a waiver of proof. Evidence or evidentiary admissions in contrast, are admissible in trial but not conclusive. In this case, a written document has been placed before us, paragraph 25, as quoted is in the preceding paragraph contains a clear admission that the theatre owner wanted to make some profit in the competitive world and, therefore, it has to be taken either as a judicial admission or an evidentiary admission. If it is taken as a quasi-judicial admission then it is binding on the Respondent. However, for the sake of consideration if it's considered to be an evidentiary admission, then also there is no other material to show that such an admission is factually incorrect. In fact, the Respondent have not made any efforts to show that it is an admission made because of oversight, inadvertence or erroneous comprehension of facts. Thus, it is clear that the Respondent has profiteered by not reducing the prices of tickets commensurately after the deduction of the rates of the GST.

28. The next two questions cast by us, are related in the sense that the Respondent has contended that the increase in price of the tickets was in line of the provision of Cinemas Act of the state of Telangana and then they charging of Rs. 3/- as non-taxable charge are also not absolving the Respondent from the violation of Section 171, CGST Act. The Cinemas Act and the Government orders passed there on does not provide for non-passing of the reduction of GST rates to the consumers. The Cinemas Act, the Government orders and the judgment passed by the Hon'ble Telangana High Court, if read

together would only mean that the prices of ticket for admittance to Cinema Hall in the state of Telangana are monitored by a Committee which fixes the maximum price, beyond which a cinema owner cannot charge a person for admittance into a theatre to watch a cinematography film. However, the fixing of prices of a particular class, or any locality or particular show is the discretion of the theatre owners. As far as this discretion is concerned, it has not been tampered with or in any way restricted by the local law and Special law as mentioned above, except prescribing a higher limit. Moreover, Rs. 3/- additional charge of maintenance cost has to be included in the ticket as its Central law will take precedence and GST has to be calculated on this Rs. 3/-also. So, we do not find any substance in the contention raised by the Learned Counsel for the Respondent.

29. That leads us to the fourth question about the imposition of interest rate of 18%. There is no dispute in this case that on 28/06/2019, by an amendment, a clause was inserted in clause (c) of Sub-Rule (3) of Rule 133 of the CGST Rules, whereby, authority (jurisdiction) was given to the Central Body/Authority considering the cases of alleged profiteering because of non-passing of the benefit of reduction of the rates of GST or benefits of ITC by commensurate reduction in price, to direct payment of interest at the rate 18% on the amount profiteered.

30. The Legal Maxim, *"NOVA CONSTITUTIO FUTURIS FORRNAM IMPONERE DEBET NON PRAETERITIS",* means a new law ought to regulate what to follow, not the past, and such presumption operate

unless shown to the contrary by express provision in the Statute or otherwise discernable by necessary implication (Monnet ISPAT and Energy Ltd., vs UOI , (2012) 11 SCC 1) wherein the Supreme Court has held that there is no indication in Section 17/A of mines and minerals (Developments and Regulation) Act, 1957 or the amending act of 1987, which inserted Section 17/A that Parliament intended to undo the State of Affairs prior of 1987 by virtue of the same. Therefore, by applying the presumption prospectivity the Supreme Court held that the Provision was effective from 1987 and has no retrospective operation. Taking the legal question from the different angle the courts in India as well as in United Kingdom has always held that whenever any Act or enactment effects any vested rights or impede a new burden on a person or impose existing application on one person against another person or class of person or society in general , then unless a contrary is provided in the statute itself by express provision or is clearly decipherable by necessary implication then such law effecting substantive right shall have prospective operation. There are several judgments to this effect, but the judgment authored by Hon'ble Justice A.K. Sikri in the Constitution Bench Judgement of the Supreme Court in the case C.I.T. Vs Vatika Township Pvt. Ltd., (2015) 1 SCC 1, still holds field.

31. On this issue, we have already decided in the case of **DGAP Vs. Procter & Gamble Group**. NAPA decided this case on 10.09.2025, that such a provision shall come into force only with the

prospective effect from 28/06/2019. In this connection we have held as follows:-

9. In order to effectively decide this issue which essentially a question of law involving interpretation of Statute, the Amending Rule (Fourth) brought by the Government of India, in Ministry of Finance (Department of Revenue) through the Central Board of Indirect Taxes and Customs (CBIC) through Notification No. 31/2019 on 28.06.2019 has to be considered. It aimed at amending various provisions of CGST Rules by exercising powers conferred upon the Government of India under Section 164 of the CGST Act. Sub-rule (1) of the Rule (1) of the said notification provided that rules may be called the Central Goods & Services Tax (Fourth Amendment) Rules, 2019. Sub-rule (2) of rule (1) is provided as follows;

> "(2) save as otherwise provided in these rules, they shall come into force on date of their publication in the official Gazette."

10. The relevant rule for the provision of Rule 133 (3) (c) which is being considered is Rule 17. It sought to amend Rule 133 of the CGST Rules. The relevant clause of Rule 17 of the Fourth

Amendment Rules is clause (c) of Rule 17 which reads as follows;

> "(c) in sub-rule (3), in clause (c), after the words "fifty percent. of the amount determined under the above clause", the words "along with interest at the rate of eighteen percent. from the date of collection of higher amount till the date of deposit of such amount" shall inserted."

11. The rest of the contents of the aforesaid rules are not relevant for our purpose for this case.

12. The Learned Counsel for the Respondent would submit that the amended provision of Clause (c), sub-rule (3) rule 133 of CGST Rules saddling on interest at the rate of 18 % per annum on Respondent came into force on 01.04.2020. We have considered his argument and also take note of the Notification cited by him which reads as follows;

> "G.S.R.927.(E)- In exercise of the powers conferred by rule 5 of the Central Goods Services Tax(Fourth Amendment) Rule, 2019, made vide notification No.31/2019 – Central Tax, dated the 28th June, 2019, published in the Gazette of India,

Extraordinary, part II, Section 3, Sub-section (i), vide number G.S.R 457(E), dated the 28th June, 2019, the Government on the recommendation of the Council , hereby appoints the 1st day of April 2020, as the date from which the provisions of the said rule, shall come into force."

13. Dealing with a similar question the Constitution Bench of Supreme Court of India in **C.I.T. (C-1) New Delhi Vs. Vatika Township Pvt. Ltd, (2015) SSC-1,** considered whether the amendment to the provisions of Section 113 of the Income Tax Act, inserted by the Finance Act, 2002 is to operate prospectively or it is a clarificatory and curative in nature, and, therefore, has retrospective operation. While considering this issue the Hon'ble Supreme Court has held that a *plain reading of the aforesaid statutory provision, it is clear that though the provision of surcharge under the Finance Act has been in existence since 1995, in so far as levy of surcharge on block assessment is concerned, it is introduced by insertion of the aforesaid provision of Section 113.*

14. *In this background, the question that arises, is whether the surcharge on block assessment has been levied for the first time by the aforesaid proviso coming into the effect from 01.06.2002, or it is only clarificatory in nature because of the reason that the provision of surcharge was made in finance Act in the year 1995 and the surcharge on block assessment as well.* We have carefully examined the aforesaid judgment and propose to summarise the reasons resorted by the Hon'ble Supreme Court without quoting the same in the following paragraphs.

15. *The Supreme Court held that a legislation, be it a statutory Act or Statutory Rule or a Statutory Notification, may physically consists of words printed on paper. However, conceptually it is a great deal more than an ordinary prose. There is a special peculiarity in the mode of verbal communication by legislation. A legislation is not just a series of statements, such as one finds in a work of fiction/ non-fiction or even in a judgment of a court of law. A legislation requires a technique and is guided by principles of legislation, whereas reading a legislation and*

interpreting it is another field which is known as interpretation of statute. One of the guiding principal is that the legislation has to be interpreted to mean that it does not have a retrospective operation unless otherwise provided in specific terms or by very strong and necessary implication.

16. *The only other course to treat it as a curative and clarificatory piece of legislation, whereby the legislating body, in this case the Government of India as it is a piece of delegated legislation, had clearly intended it to be to have a retrospective application or that it was necessary make such amendments to clarify the existing legislation. The obvious basis of the principle against retrospectively is a principle of fairness, which must be the basis of every legal rule. Thus legislation which modified accrued rights or which impose obligation or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supply an obvious omission in a former legislation or to explain a former legislation.*

17. Though in some case and also in case of Vatika Township (Supra), it has been observed that where a benefit is conferred by legislation, the rule against a retrospective construction is different. However we are not concerned about any such doctrine retrospective conferring beneficial fruits of legislation rather than in this case we are confronted with the question of retrospectively of a new liability.

18. *On the contrary, it is a provision which onerous to the assesse. Therefore, in a case like this, the normal rule of presumption against retrospective operation is applicable. The Rule against retrospective operation is a fundamental rule of Law that no statute shall be constructed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication.*

19. *Dogmatically framed, the rule is no more than a presumption, and thus could be displaced by out weighing factors. The outgoing or rebutting factors may be found in the statute itself as mentioned by Justice G. P. Singh in his book on*

Interpretation of Statute, but it is not always the guiding factors. Sometimes the Act uses a word "declare" as well as the word "enacted". The word used in statute itself sometimes is a good indicator of the retrospectively provision.

20. In this particular case, on a reference to the Notification No. 31/2019-Central Tax; G.S.R.457(E).- it is seen that the Government of India in exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, made the rules therein to "further" amend the Central Goods & Services Tax Rules. We lay emphasis on the word "further". We also take note that grammatically and semantically, the word "further" does not imply the past. It usually means "in addition" or "to advance". Hence, we are unable to agree to the submissions made by the Representatives of the DGAP that this Amending provision is Clarificatory and Curative having retrospective effect. We are also unable to agree with the submissions that it is not an enabling provision requiring prospective operation.

21. As mentioned earlier sub rule (2) of Rule (1) specifically provided that they shall come into

force on their date of publication, except as otherwise provided in these rules. A careful comparison of rule 17 with rule 5 of the said amending rules reveals that rule 5 aims at inserting a proviso to rule 46 of CGST Rules. It seeks to amend rule 46 by providing the following proviso namely;

> "Provided that the government may by notification, on the recommendation of the council and subject to such conditions and restriction as mentioned therein, specify that tax invoice cell have a Quick Response (QR) code".

22. And virtue of Notification No. 71/2019- Central Tax dated 13.12.2017, the Government appointed 01.04.2020 as the date from which such rule regarding provision of QR code would be effective. Thus it is clear that the Government of India in framing the delegated legislation was fully aware of the impact of the legislation and day on which it was to take effect. There is no provision for notifying a different date for coming into force of Rule 17, which seeks to amend rule 133 of the Fourth Amending Rules of the CGST Rules regarding Anti-Profiteering. However, it

has clearly provided a different date i.e. 01.04.2022 for the implementation of the direction / requirement of providing a QR code.

23. In that view of the matter, we are of the opinion that, the argument advanced by the Learned Counsel of the Respondent is partially acceptable and partially non-acceptable. That is to say that we agree to the argument advanced by the Learned Counsel for the Respondent that the provision for imposition 18 per cent interest on the profiteered amount shall come into force only to those cases which fall after the notification on the Amending (Fourth) Rule came into force, that is 28.06.2019 and not on 1st April, 2020, as argued by the Learned Counsel. However, in this case profiteering took place much prior to date of coming into force of such provision for levying interest and in view of the constitution Bench judgment of the Supreme Court in the case Vatika Township Pvt. Ltd. (Supra)., we are of the opinion this is not the fit case where Respondent should be directed to pay any interest on the profiteered amount.

32. Thus, the argument advanced by the learned Counsel for the respondent that such a provision which is enabling provision and not a clarifactory or curative provision, should be applicable only

prospectively is correct but the second limb of contention that it shall be applicable from 01.04.2020 is not acceptable. It has not been accepted by us in the case of DGAP vs. Procter and Gamble Group (SUPRA). It is applicable from 28.06.2019. Then, what should be the order of the Court, as it is seen that from 01.01.2019, the Respondent was collecting 18% and 12% GST, without reducing the price of tickets. It continued till the end of the period i.e. 30.06.2019. So, there are ample evidences and materials regarding the fact that he has profiteered, in spite of, reduction in the rates of GST. However, as far as this question of imposition of interest, which may be termed as a penal interest, is concerned, it came into force in 28.06.2019. It means that if he violated the provision of Section 171, which also attracts an interest rate at the rate of 18% on the amount profiteered for three days i.e. 28th, 29thand 30thJune, 2019. What should be our order is the relevant question now.

33. This brings to us to the last 2 questions regarding the date of coming into force of the provision as enshrined in Clause (c) of Sub Rule (3) of Rule 133 of CGST Rules. The facts are not disputed in this case and GST Act came into force 01.07.2017 and reduction of rate was with effect from 01.01.2019. The period under investigation by the DGAP is between 01.01.2019 to 30.06.2019. If it is taken as a time continuum, the effective date of the aforesaid clause enabling the Authority to impose 18% on the profiteered amount falls on 28.09.2019. So out this period, period, i.e., between 01.01.2019 to 30.06.2019, 3 days viz., 28.06.2019, 29.06.2019 and 30.06.2019 comes under the purview of the provision which empowers the

Authority to impose 18% interest on the profiteered amount. So, the question remains to be determined by us is whether the interest should be charged on the profiteered amount which has allegedly been covered for entire 6 months i.e. 01.01.2019 to 30.06.2019 or it should only be confined to "the period", on or after the date from which the amendment came into force. One argument is that, since it is a continuing and recurring cause of action, cause of action being violation of sub Section (1) of Section 171 of the CGST Act, by the Respondent, the profiteered amount for the entire period, should be subjected to 18% interest. The other argument is that this Authority do not have the jurisdiction impose interest on the profiteered amount for the period that falls prior to 18.06.2019. We are of the considered opinion that, the interest of 18% has to be applicable for 3 days i.e. 28.06.2019, 29.06.2019 and 30.06.2019 and accordingly order should be passed. This question of law is accordingly answered.

34. Hence, we accept the report of the DGAP and hold that the Respondent has profiteered a sum of Rs. 16,50,166/- only by not passing on the benefit of reduction of the rates of GST on tickets sold for admittance in to the Theatre for exhibition of cinematography films to the consumers.

35. Therefore, it is directed that the Respondent shall deposit an amount of Rs. 16,50,166/- only along with the interest at the rate 18 % on Rs. 27,350.817 [Rs. 16,50,166/ = only divided by 181 (one eight one), multiplied by 3 (three)] rounded off to Rs. 27,350/- calculated from 01.01.2019, with annual rests. The amount shall be divided into

parts two parts, half of it along with interest as calculated above is to be deposited in the Consumer Welfare Fund(s) created by Centre. The rest will be deposited in the Consumer Welfare Fund(s) created by State of Telangana within one month. If the Telangana Consumer welfare fund has not been created yet then, half of the portion to be deposited by the Respondent in the in the Consumer Welfare Fund (s) created by the centre instead.

36. A report in compliance of this order shall be submitted to this Tribunal by the concerned Commissioner within a period of 4 months from the date of receipt of this order.

37. A copy each of this order be supplied to the respondent and to the concerned Commissioner CGST / SGST for necessary action.

Judgment pronounced in open court.

M.S / M.V

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

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