

**GSTAT**  
**Single Bench Court No. 1**

**NAPA/16/PB/2025**

DGAP

.....Appellant

**Versus**

DANGE ENTERPRISE

.....Respondent

**Counsel for Appellant**

**Counsel for Respondent**

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

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. :  
ZA071225000018H**

**Date of order : 02/12/2025**

<b>1.</b>	GSTIN/Temporary ID/UIN - 27BFJPD8172H1Z9	
<b>2.</b>	Appeal Case Reference no. - NAPA/16/PB/2025	Date - 25/01/2023

3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Dange Enterprises , swapneel.dange@gmail.com , NA	
5.	Order appealed against -	
	<b>(5.1) Order Type -</b>	
	<b>(5.2) Ref Number -</b>	Date -
6.	Personal Hearing - 02/12/2025 14/10/2025 26/08/2025 29/07/2025 01/07/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - Report submitted by the DGAP is accepted to the extent that Respondent has profiteered an amount to the tune of Rs. 4,57,683/- only. The Respondent is directed to deposit the profiteered amount as aforesaid in the Consumer Welfare fund created by Centre and States equally.	
<b>Summary of Order</b>		
9.	Type of order : Deposit in Consumer Welfare Fund/s	

Place :DELHI PB

Date : 02.12.2025

### **Final Order**

1. The matter was taken up today in physical mode. Shri Suneel Kumar, Additional Assistant Director- Departmental Representative assisted by Shri Ravi Passi, Inspector appeared on behalf of DGAP. Shri Varun Sharma, Advocate, Learned Counsel for Respondent appeared before us.
2. In course of hearing, it was transpired that DGAP conducted the investigation and submitted its 1<sup>st</sup> Report on 17.09.2021, wherein, it was alleged that Respondent has profited an amount of Rs. 28,74,577/- including GST on base profited amount.
3. This matter was taken up by erstwhile NAA and as per the order dated 05.08.2022 in I.O No. 11/2022, it held that the matter should be remanded back to the DGAP to carry out further investigation in terms of Rule 133 (4) with a direction that the investigation should be completed and a Report should be sent to the Authority within 3 months. It was also directed by the erstwhile NAA that if the Respondent does not provide relevant and complete information for the investigation period all means available under the provisions of the CGST Act, 2017 and rules made thereunder shall be utilised.
4. Thereafter, 2<sup>nd</sup> Report was submitted by DGAP re-iterating that the profiteering amount remains the same. It is stated by the DGAP that no further documents were submitted by the Respondent and therefore they had come to the conclusion that profiteering determined by the DGAP remains the same. It may be noted here that the period for which the investigation was made is between

15.11.2017 to 30.06.2019. As per the latest Report dated 20.11.2025, the amount profited is Rs. 4,57,683/-.

5. Shri Varun Sharma, Learned Counsel appearing for the Respondent today submitted written submission to the effect that Respondent admits the amount profited but disputes the liability to pay any penalty and interests thereon. The Learned Counsel for the Respondent has also relied upon the earlier decided case of this Tribunal i.e. DGAP Vs. Proctor and Gamble Group, bearing case no. NAPA/13/PB/2025 dated 10.09.2025, wherein this Tribunal has arrived at a categorical finding that amendment made to Clause (c), sub-rule (3) Rule 133 of the CGST Rules is retrospective in effect. We consider it appropriate to take note of our observation and quote the same to make it clear:-

8. Thus, the only issue that needs to be decided, in this case, is:-

*“Is the Respondent liable to pay an interest @ 18% on profited amount?”*

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 28<sup>th</sup> 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 28<sup>th</sup> June, 2019, the Government on the recommendation of the Council , hereby appoints the 1<sup>st</sup> 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) SCC-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 retrospectivity is a principles 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 a 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 retrospectivity of a new liability.
18. *On the contrary, it is a provision which onerous to the assessee. 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 words “declare” as well*

*as the word “enacted”. The word used in statute itself sometimes is a good indicator of the retrospectivity 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.
6. In that view of the matter, it is clear that period of investigation doesn’t substantially fall within the period from which interest as per under the Clause (c), sub-rule (3) rule 133 of CGST Rules is applicable. Hence, we are not inclined to pass any order to that effect.

7. It is also not disputed in this case that the petitioner's case doesn't fall within the ambit of penalty as provisions for the imposition of penalty was inserted in the year 2020 which is much after the last date of the alleged profiteering.
8. Thus, the Report submitted by the DGAP is accepted to the extent that Respondent has profiteered an amount to the tune of Rs. 4,57,683/- only from recipient who are faceless. So, the Respondent is directed to deposit the profiteered amount as aforesaid in the Consumer Welfare fund created by Centre and States equally.
9. 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.
10. A copy each of this order be supplied to the respondent and to the concerned Commissioner CGST / SGST for necessary action.
11. Case disposed off.