

GSTAT

Single Bench Court No. 3

NAPA/162/PB/2025

DG ANTI PROFITEERING, DIRECTOR GENERAL OF ANTI-
PROFITEERING, DGAP

.....**Appellant**

Versus

KANWAR ENTERPRISES PVT. LTD.

.....**Respondent**

Counsel for Appellant

Counsel for Respondent

Hon'ble Sh. Anil Kumar Gupta, Member (Technical)

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. : ZA070010226000053H

Date of order : 12/02/2026

1.	GSTIN/Temporary ID/UIN - 09AACCK6205E1ZT	
2.	Appeal Case Reference no. - NAPA/162/PB/2025	Date - 25/10/2024
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Kanwar Enterprises Pvt. Ltd. , kanwarenterprises23@rediffmail.com , 8447747422	
5.	Order appealed against -	

	(5.1) Order Type -
	(5.2) Ref Number -
6.	Personal Hearing - 12/02/2026 28/01/2026 16/12/2025 28/10/2025
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - The Respondent has profiteered by an amount of Rs. 12,20,694/- which needs to be passed on to M/s NTPC Ltd. And as the work of Rs. 97,66,48,456/- has been completed which is about 76.735% of the total work done as per Letter of Award dated 15.09.2016 for the said project in post GST period, accordingly, proportionate profiteering amount for the completed work calculated as Rs. 9,36,700/- is liable to be passed to the Applicant. Further as per Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017, the Respondent is liable to pay interest as applicable to Applicant. The Respondent shall pay the profiteered amount of Rs. 9,36,700/- to the Applicant along with applicable interest within 30 days and submit compliance report to the jurisdictional CGST/SGST Commissioner with intimation to the DGAP within 2 months. The case is disposed of, accordingly.
Summary of Order	
9.	Type of order : Closure Report

Place : DELHI PB

Signature

Date : 12.02.2026

DELHI PB Sudesh Kumar

Designation : Stenographer/Law researcher

Jurisdiction :Delhi (PB)

ORDER

1. The proceedings in the present case arise out of the investigation report dated 25.10.2024 (hereinafter referred to as the “DGAP Report”) submitted by the Director General of Anti-Profiteering (hereinafter referred to as the “DGAP”) under Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”), read with Rule 129 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the “CGST Rules”). The investigation was initiated pursuant to a complaint referred by the Standing Committee on Anti-Profiteering on an application filed by the Executive Director (Vigilance), NTPC, 6th Floor, Engineering Office Complex, Plot-A-8A, Sector-24, Noida-201301 (hereinafter referred as Applicant), alleging profiteering in respect of construction services supplied by M/s Kanwar Enterprises Pvt. Ltd., C-73, Sector- 73, Noida, Gautam Budh Nagar, Uttar Pradesh- 201301, (hereinafter referred to as “the Respondent”) for the Project “Ash Dyke Stage-II A NTPC Tanda Thermal Power Project”, situated at Uttar Pradesh. It was alleged that the Respondent had failed to pass on the benefit of input tax credit of GST as well as benefit due to reduced GST liability as compared to VAT & Service Tax in pre-GST period to M/s NTPC Ltd. in respect of the construction service of the said project.
2. The period covered by the current investigation is from 01.07.2017 to 31.10.2023.
3. The DGAP stated that following the introduction of GST from 01.07.2017, earlier taxes such as VAT and Service Tax were subsumed, and the contract was amended after the Respondent offered a rebate to NTPC to account for pre-GST tax liabilities and the impact of input tax credit. Initially, the Respondent calculated pre-GST taxes by applying VAT at 5% on 60% of the contract value and Service Tax at 14.5% on 40%, resulting in a rebate of ₹11.01 crore, duly certified by a Chartered Accountant. However, upon examination prompted by a CVC query, it was observed that VAT at 5% was applicable on the full contract value, leading to a total pre-GST tax incidence of 10.8% of the base value and a revised pre-GST tax liability of ₹13.55 crore, thereby revealing a short rebate of ₹2.54 crore recoverable from the Respondent. Further, DGAP noted that GST enabled additional input tax credit on goods and services, including materials consumed, and under Section 171 of the CGST Act, 2017, the benefit of such additional ITC was required to be passed on to the service recipient. During examination of the CA certificate and contract details, DGAP concluded that certain pre-determined material items—namely binding wire, MS pipe/Hume pipe, and instruments—were to be considered for calculating profiteering on the basis of their total expected consumption over the project, with the profiteering amount to be proportionately passed on to NTPC for amounts already billed and to be adjusted similarly in future billings. Profiteering calculated by the DGAP is as follows:-

Calculation of Profiteering

Service/Materials	Taxable Value as per agreement	Rate of C. Excise	Cost to supplier after adjusting for Margin* of Profit @12 %	Taxable Value/Cost to Supplier after adjusting for Central Excise not applicable in pre-GST regime	Reduction in cost due to Central Excise Duty being subsumed in GST and available as ITC
(A)	(B)	(C)	(D=(B*100)/112)	(E=(D*100)/112.5)	(F=D-E)
Instruments	2087000	12.5%	1863393	1656349	207044
Binding Wire	681600	12.5%	608571	540952	67619
Hume Pipe/RCC/MS Pipe	9536000	12.5%	8514286	7568254	946032
Profiteering					1220695

* Respondent has claimed that the cost of agreement includes 12 % margin of profit on its own cost of procurement of services or the inputs

From the above table, it is noticed that the total profiteering of Rs 12,20,695/- has accrued to the Respondent post implementation of the GST. The profiteering of Rs.12,20,695/- has to be passed on to the NTPC in respect of purchases of goods and services in the post GST period which is Rs.127,27,56,924/-.

4. The DGAP in its report concluded that as per Bill Summary submitted by the Respondent to the DGAP vide email dated 06.08.2024, the work of Rs.97,66,48,456/- i.e. almost 76.735% of the total work done in the post GST period, and accordingly, proportionate profiteering for the completed work comes to Rs.9,36,700/- and the same is required to be passed on to the NTPC. The Respondent is also required to pass on the remaining profiteering amount of Rs.2,83,995/- to the NTPC upon completion of the balance work.
5. The above report of the DGAP was received in Pr. Bench, GSTAT on 25.10.2024. A Notice dated 28.10.2025 was issued to the Respondent with intimation to the complainants to file written submissions on the report of the DGAP.
6. The Respondent, vide letter dated 01.12.2025, accepted the profiteered amount determined in the DGAP's report dated 25.10.2024, stating that after internal verification and reconciliation of the DGAP's calculations, the differential benefit under GST was acknowledged in good faith and as a measure of compliance with Section 171 of the CGST Act, 2017, while clarifying that there was no mala fide intent and that any non-passing of transitional benefit was inadvertent due to implementation challenges during the GST transition. Subsequently, NTPC, through an email dated 02.12.2025 from its Addl. General Manager (Vigilance), indicated that he was not associated with the contract and provided details of the concerned officials, pursuant to which notices were

issued to them. Thereafter, NTPC, vide reply dated 07.01.2026 from its DGM and Package In-charge, informed that it had reviewed the DGAP's report, the Respondent's acceptance letter, and the rebate calculations, and accepted the computed additional profiteered amount of ₹12,20,329/- over and above the earlier acknowledged amount of ₹11.01 crore.

7. Hearings in the matter were conducted on 16.12.2025 and 28.01.2026, during which Sh. Sunil Kumar, Additional Assistant Director, and Sh. Anurag Gupta, Inspector, appeared on behalf of the DGAP, while Sh. Ajit Kumar Mahapatra, Taxation Manager, represented the Respondent, and Sh. Jai Prakash Gupta, DGM and Package In-charge, appeared on behalf of the Complainant, M/s NTPC Ltd. During the hearings, the Respondent reiterated its acceptance of the DGAP's report, and the Applicant confirmed, as already communicated vide letter dated 07.01.2026, that the findings of the DGAP were acceptable to them. In view of such acceptance by both parties, the Departmental Representatives of the DGAP submitted that the matter may be closed in accordance with the DGAP's report.
8. In view of the above, we hold that the Respondent has profiteered by an amount of Rs. 12,20,694/- which needs to be passed on to M/s NTPC Ltd. And as the work of Rs. 97,66,48,456/- has been completed which is about 76.735% of the total work done as per Letter of Award dated 15.09.2016 for the said project in post GST period, accordingly, proportionate profiteering amount for the completed work calculated as Rs. 9,36,700/- is liable to be passed to the Applicant. Further as per Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017, the Respondent is liable to pay interest as applicable to Applicant. The Respondent shall pay the profiteered amount of Rs. 9,36,700/- to the Applicant along with applicable interest within 30 days and submit compliance report to the jurisdictional CGST/SGST Commissioner with intimation to the DGAP within 2 months.
9. The case is disposed of, accordingly.
10. A copy of this order be supplied to the Respondent, the Applicant and to the concerned Commissioners CGST/SGST for necessary action.
11. Order is pronounced in the open court today.

Sd/-
(Sh. Anil Kumar Gupta)

Dated: 12.02.2026