

**GSTAT**

**Court No. 2**

**NAPA/2/PB/2025**

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

**.....Appellant**

**Versus**

A J ENTERPRISES

**.....Respondent**

**Counsel for Appellant**

**Counsel for Respondent**

**Hon'ble Justice Sh. Mayank Kumar Jain, Member(Judicial)**

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. : ZA070010226000103H**

**Date of order : 20/02/2026**

<b>1.</b>	GSTIN/Temporary ID/UIN - 27AHVPJ9489Q1ZR	
<b>2.</b>	Appeal Case Reference no. - NAPA/2/PB/2025	Date - 19/10/2022
<b>3.</b>	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
<b>4.</b>	Name of the Respondant - 1. A J Enterprises , avinash1306@gmail.com , 6202424206	
<b>5.</b>	Order appealed against -	
	<b>(5.1) Order Type -</b>	

	<b>(5.2) Ref Number -</b>	<b>Date -</b>
<b>6.</b>	Personal Hearing - 20/02/2026 20/01/2026 24/12/2025 16/12/2025 04/12/2025 17/11/2025 10/10/2025 24/09/2025	
<b>7.</b>	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
<b>8.</b>	Order in brief - the report of the DGAP dated 14.10.2022 is accepted. The Respondent is directed to deposit the profiteered amount along with the interest @18% from 28.06.2019 to 30.09.2019. 50% of the profiteered amount along with the interest shall be deposited in the Central Consumer Welfare fund and remaining 50% amount along with the interest shall be deposited in Maharashtra Consumer Welfare fund.	
<b>Summary of Order</b>		
<b>9.</b>	Type of order : Deposit in Consumer Welfare Fund/s	

### **ORDER**

- The present proceedings arise out of an investigation report dated 14.10.2022, issued by the Director General of Anti-Profiteering (hereinafter referred to as ‘the DGAP’) against M/s A.J. Enterprises, Sun Orbit, Flat No. B-201, Suncity Road, Vadgaon, Maharashtra (hereinafter referred to as ‘the Respondent’) under Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘CGST Act’) read with Rule 129(6) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as ‘CGST Rules’).
- In the said report, the DGAP has determined that the Respondent has profiteered an amount of ₹13,32,322/- during the period 15.11.2017 to 30.09.2017 by not passing on the benefit commensurate to reduction of GSTR

rate from 18% to 5% without input tax credit on supply of restaurant services with effect from 15.11.2017.

3. The Respondent is a registered supplier of restaurant services and has been operating a 'Subway' franchise outlet at Amanora Mall, Pune, Maharashtra, since the year 2016. The Respondent conducted its business under a standard franchise agreement entered into with M/s Subway Systems India Pvt. Ltd. (hereinafter referred to as "Subway India").
4. An application was filed before the Standing Committee on Anti-Profiteering alleging that the Respondent had indulged in profiteering in contravention of Section 171 of the CGST Act, despite reduction of the GST rate on restaurant services from 18% to 5% (without input tax credit) with effect from 15.11.2017.
5. The said application was examined by the Maharashtra State Level Screening Committee, which observed that the Respondent had not passed on the commensurate benefit of reduction in tax rate to the recipients. Consequently, the matter was forwarded to the Standing Committee on Anti-Profiteering for further action.
6. Upon being prima facie satisfied that the Respondent had not passed on the benefit of reduction in GST rate as mandated under Section 171 of the CGST Act, the Standing Committee referred the matter to the DGAP under Rule 129 (1) of the CGST Rules for detailed investigation.

7. The DGAP issued a notice to the Respondent calling upon it to show cause as to whether the benefit of reduction in GST rate from 18% to 5% w.e.f. 15.11.2017 on supply of restaurant services had been passed on to the recipients by way of commensurate reduction in prices, and further directed the Respondent to *suo moto* compute the quantum of such benefit, if any.
8. The Respondent submitted its detailed reply along with supporting documents and annexures, denying the allegations of profiteering.
9. Upon completion of investigation, the DGAP submitted his report dated 20.08.2020, wherein it was concluded that the Respondent had contravened the provisions of Section 171 of the CGST Act and had profiteered an amount of ₹15,66,821/-.
10. The said report was examined by the National Anti-Profiteering Authority (hereinafter referred to as 'NAPA'). *Vide* its interim order dated 13.04.2022, NAPA remanded the matter back to the DGAP under Rule 133
11. (4) of the CGST Rules, *inter alia*, observing certain discrepancies such as per unit sales price of products take for computation of profiteered amount and inclusion of period beyond the scope of notice.
12. Pursuant to the aforesaid directions, the DGAP conducted further investigation and submitted a fresh report dated 14.10.2022, wherein the profiteered amount was recomputed as ₹13,32,322/- for the period 15.11.2017 to 30.09.2019.

13. The DGAP concluded that the Respondent had increased the base prices of its products and failed to pass on the benefit of reduction in GST rate from 18% to 5% w.e.f. 15.11.2017, as notified *vide* Notification No. 46/2017–Central Tax (Rate) dated 14.11.2017.
14. The Principal Bench of the GST Appellate Tribunal (GSTAT), constituted under sub-section (3) of section 109 of CGST Act, 2017, has been empowered to examine Anti-Profiteering cases w.e.f. 01.10.2024, *vide* Notification No. 18/2024-Central Tax dated 30.09.2024.
15. Notice was issued to the Respondent calling upon it to file its written submission in response to the investigation report dated 14.10.2022 submitted by the DGAP.
16. Pursuant thereto, the Respondent filed its written submissions *vide* letter dated 16.10.2025 before this Tribunal, contesting the findings recorded by the DGAP.
17. Shri Nikhil Gupta learned counsel, assisted by Shri Rochit Abhishek, appeared on behalf of the Respondent and advanced submissions.
18. It is submitted that, owing to operational and commercial challenges, the Respondent has since closed its outlet at Amanora Mall, Pune. It is further submitted that the Respondent operated the said outlet under the following commercial terms with Subway India and various online food aggregators:
  - (a) Royalty @ 8% of the base price of sales was payable to Subway India,

- (b) Advertisement Contribution @ 4.5% of the base price was payable to Subway India,
- (c) Lease Rent @ 9%-10% of the monthly revenue (on base price), subject to a minimum guarantee amount payable to Subway India,
- (d) Common Area Maintenance (CAM) charges of ₹41,914/- per month,
- (e) Combined commission averaging 22.7% per transaction payable to online aggregators (such as Swiggy, Zomato, Uber Eats and Food Panda), comprising platform fees, delivery charges and other allied charges.

19. It is submitted that the Respondent periodically revised its menu prices, in response to input cost inflation, market dynamics, and consistent with operational guidance from Subway India. The trend of price revision between July 2017 and September 2019 is tabulated hereunder:

Date	6" Aloo Patty			6" Hara Bhara Kabab			SOTD		
	CP	Tax	BP	CP	Tax	BP	CP	Tax	BP
01.07.2017	159.3	24.3	135.0	141.6	21.6	120.0	123.9	18.9	105.0
18.08.2017	159.3	24.3	135.0	141.6	21.6	120.0	130.0	19.8	110.00
15.11.2017	160	7.6	152.4	140.0	6.7	133.3	125.0	5.94	119.05
01.08.2018	160	7.6	152.4	140.0	6.7	133.3	130.0	6.18	123.80
01.03.2019	170	8.1	161.9	150.0	7.1	142.9	135.0	6.40	128.57

20. Learned counsel for the Respondent further submitted that there was a subsequent increase in variable cost, including royalty, rental charges and delivery commission. It is also submitted that, for billing convenience, menu

prices were occasionally rounded off to the nearest ₹5/- or ₹10/-, and that such rounding off was purely operational in nature and not with any intent to profiteer.

21. While contesting that the present proceedings are barred by limitation, learned counsel asserted that there is no allegation of fraud or mis-representation against the Respondent. Even assuming such allegations existed, a period of more than five years has elapsed, which is the limitation prescribed under Section 74 of the CGST Act. Even if there is no limitation prescribed for any provision, it cannot be construed that there is no limitation period at all.
22. Learned counsel for the Respondent submitted that the DGAP has arbitrarily selected the period of investigation from 15.11.2017 to 30.09.2019 for computation of the alleged profiteering amount, without considering the legitimate price revisions due to rising operational costs during the said period.
23. Learned Counsel further contented that the DGAP itself calculated the loss of ITC at 8.21%. Based on this, the maximum gross profiteering, without factoring in other increased operational costs cannot exceed 4.38%. The amount of profiteering computed by the DGAP i.e. ₹13,32,322/- on total turnover of ₹1,80,17,094/- is about 7.40%, exceeding the threshold of 4.38% and hence, such calculations are incorrect.
24. It is submitted that the Respondent had increased the base price of its products by approximately 13% on average, whereas the loss of ITC alone ranged

between 10% to 11%, on direct incremental costs such as royalty, commission, advertisement expenses, rentals, and periodical capital expenditure. There was a significant increase in other cost component effective from 15.11.2017 including the above-mentioned expenses.

25. Learned counsel further submitted that the minimum cost incurred by the Respondent had increased by approximately 12.69% as elucidated in the tabulated statement below:

<b>Description</b>	<b>Extra Cost</b>	<b>ITC Loss</b>	<b>Total</b>
ITC Loss as per DGAP (without prejudice)		8.21%	8.21%
Incremental Royalty	1.04%	0.12%	1.16%
Incremental Advertisement Contribution	0.59%	0.11%	0.69%
Incremental Lease Rent	1.17%	0.21%	1.38%
Incremental Commission for online Partners	1.05%	0.19%	1.24%
<b>Total</b>	<b>3.85%</b>	<b>8.84%</b>	<b>12.69%</b>

26. On the basis of the aforesaid table, it is submitted that against reduction in GST rate of 13%, the Respondent's cost structure correspondingly increased with effect from 15.11.2017. Therefore, the alleged profiteering computation is incorrect and arbitrary.
27. To buttress his arguments the learned counsel relied upon ***Kumar Gandharva v. KRBL Ltd., 2018 (13) G.S.T.L. 412 (N.A.P.A.)*** wherein it is held that



increase in price on account of increased cost is legitimate and does not amount to profiteering.

28. Reliance is also placed on *DGAP v. Proctor & Gamble Group, (2025) 35 Centex 77 (Tri. – GST – Delhi)* to contend that interest cannot be levied for any period prior to the introduction of the statutory provision enabling imposition of interest under Rule 133(3)(c) of the CGST Rules. It is further argued that provision for imposition of penalty u/s 171(3A) of the CGST Act was introduced w.e.f. 01.01.2020, and therefore, no penalty can be imposed on the Respondent.
29. The DGAP submitted its clarification against the written submissions made by the Respondent.
30. Shri Rahul Roa Gautam, Additional Assistant Director and Authorised Representative appearing on behalf of the DGAP, submitted that the proceedings are not barred by limitation as the time limit prescribed for furnishing of report by the DGAP is directory and not mandatory in nature. He relied upon the decision of the Hon'ble Supreme Court in *P.T. Rajan v. TPM Sahir & Ors. (2003) 8SSC 498*.
31. He also submitted that the methodology adopted by the DGAP is correct and strictly in accordance with provisions of Section 171 of the CGST Act, 2017. The average base price in the pre-rate-reduction period has been calculated separately for each product and for each channel of sale, based on the data

supplied by the Respondent. The base price is exclusive of taxes. Normally, this average base price is calculated over a period of one month prior to rate-reduction. The base price for a particular period in each channel is compared with the transaction wise taxable value after rate-reduction period for the same product sold through same channel. In post-rate-reduction period, the transaction wise value has to be considered for calculating profiteering for each transaction and for each customer.

32. With regard to the Respondent's contention that various expenses were directly linked to the base price and formed a significant part of the operating cost structure, it is submitted that the Respondent failed to furnish any documentary evidence in support of its claim of erroneous computation of ITC loss. The methodology adopted by the DGAP to arrive at loss of ITC @ 8.21% is correct. The computation of profiteered amount ₹13,32,322/- was carried out basis the sales data furnished by the Respondent for the period from 15.11.2017 to 30.09.2019.

33. Perused the record.

34. Section 171 of the CGST Act reads thus:

***“Section 171 Anti-profiteering measure. -***

*(1). Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.*

*(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

***Provided** that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

***Explanation 1.** —For the purposes of this sub-section, “request for examination” shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

***Explanation 2.** —For the purposes of this section, the expression “Authority” shall include the “Appellate Tribunal*

*(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.*

*(3A) Where the Authority referred to in sub-section (2), after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten per cent. of the amount so profiteered:*

***Provided*** *that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the order by the Authority.*

***Explanation.*** *-For the purposes of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both "*

35. Foremost, the question of limitation is dealt herewith.

36. Shri Nikhil Gupta, Learned Counsel for the Respondent vehemently argued that the Authority was required to pass its final order within a period of six months from the date of receipt of DGAP's report and that the said timeline is mandatory in nature. It was contended that, in cases where fraud or misrepresentation is involved, the maximum limitation period is five years. In the present case, even though no fraud or misrepresentation is alleged, the

statutory period has already been passed. Therefore, the proceedings are barred by the limitation.

37. Per contra, the learned Representative of the DGAP submitted that the time limit as provided for the Rule 133 of the CGST Rules is discretionary in nature.
38. The Hon'ble Apex Court in ***P. T Rajan v. T.P.M Sahir and others, AIR 2003 SC 4603***, held that even if the statute specifies a timeline for publication of the electoral roll, it would be directory. The Hon'ble Court observed:

*“48. Furthermore, even if the statute specifies a time for publication of the electoral roll, the same by itself could not have been held to be mandatory. Such a provision would be directory in nature. It is well settled principal of law that where a statutory functionary is asked to perform a statutory duty within the time prescribed therefore, the same would-be directory and not mandatory”*

*(Emphasis added)*

39. The Division Bench of Hon'ble High Court of Delhi in ***Nestle India Ltd. v. Union of India, WP (C) 969/2020***, held that; -

*“We also observe that prima facie, it appears to us that the limitation of six months provided in Rule 133 of CGST Rules, within which the authority should make its order from the date of receipt of the report of the Directorate General of Anti-Profiteering, appears to be directory in*

*as much as no consequence of non-adherence of the said period of six months is prescribed either in the CGST Act or the Rules framed thereunder”.*

40. Relying upon the decision of the Hon’ble Apex Court in ***P. T. Rajan v. T.P.M Sahir (supra)*** the Hon’ble High Court of Delhi in ***Reckitt Benckiser India Pvt. Ltd. v. Union of India (2024) 14 Centax 374 (Delhi)*** observed that the anti-profiteering provisions are in the nature of a beneficial legislation and it must receive liberal construction that favours the consumer. That the time limit provided under Rule 133 is directory and not mandatory in nature. Relevant extract of the judgement is as under:

*“158. In some cases, the Petitioners have pointed out that the timelines as provided in the Rules, 2017 have not been followed. They further contended that as a result, the proceedings are vitiated. However, it is important to note that the rules, 2017 do not provide any consequence in case the time limits provided there under lapse. As held earlier, **the anti-profiteering provisions in the Act 2017 and the Rules, 2017 are in the nature of a beneficial legislation as they promote consumer welfare. The Courts have consistently held that beneficial legislation must receive liberal construction that favours the consumer and promotes the intend and objective of the Act.** That being the scenario, it cannot be said that*

*proceedings as a whole abate on lapse of the time limit of furnishing of report by DGAP.”*

41. Having considered the rival contentions and in view of the foregoing judicial pronouncements of the Hon’ble Courts, we are of the considered view that the anti-profiteering provisions are in the nature of beneficial legislation. The provisions are aimed at protecting the interests of the consumers and ensuring that the commensurate benefit of rate reduction or input tax credit is ultimately passed to the consumer. The time limit of six months prescribed under Rule 133 of CGST Rules are directory in nature. Therefore, the present proceedings are not barred by limitation.
42. The dispute in the present matter is whether the Respondent indulged in profiteering by increasing the base prices of its products despite reduction in the GST rate from 18% to 5% with effect from 15.11.2017, thereby failing to pass on the benefit of such rate reduction to the recipients by way of commensurate reduction in prices, as required under Section 171 of the CGST Act.
43. Admittedly, the Respondent increased the base price of 6’’ Aloo Patty and 6’’ Hara Bhara Kabab on 15.11.2017. *Vide* Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017, applicable rate of GST on supply of restaurant service was reduced from 18% to 5% w.e.f. 15.11.2017. Suffice to say the increase in

base prices of the aforesaid products coincided with the very date on which reduced rate of tax of 5% became effective.

44. Shri Nikhil Gupta, learned counsel for the Respondent contended that the minimum increase in cost was approximately 12.69%, including loss of input tax credit arising out of the reduction in the rate of tax. It was further argued that, since the DGAP itself computed the loss of ITC at 8.21%, the Respondent was entitled to correspondingly increase the base prices of 6'' Aloo Patty and 6'' Hara Bhara Kabab to the extent of 8.21%. He vehemently argued that on account of incremental royalty, increased advertisement contribution, enhanced lease rent, and higher commission payable to online aggregators, the Respondent was constrained to increase the base prices of 6'' Aloo Patty and 6'' Hara Bhara Kabab to the extent of 12.69%. In support of this contention, reliance was placed on the cost-wise tabular break-up forming part of the Respondent's written submissions, as extracted in paragraph 20 above.
45. Learned counsel for the Respondent submitted that, consequent upon the reduction in the rate of GST from 18% to 5% (without ITC), the effective difference was 13%. It was contended that, after accounting for the loss of ITC and incremental operational expenses, the Respondent increased the base prices of 6'' Aloo Patty and 6'' Hara Bhara Kabab by 12.69%. It was further submitted that, since the variance between the reduction in tax rate and the increase in



base prices was marginal, the computation of the profiteered amount by the DGAP is incorrect.

46. Perusal of the tabulation furnished by the Respondent in its written submissions dated 16.10.2025 (extracted at paragraph 18 above), comparing the base prices of 6'' Hara Bhara Kabab and 6'' Aloo Patty during the period July 2017 to September 2019, reveals that the base price of 6'' Hara Bhara Kabab was ₹120/- as on 01.07.2017 and remained unchanged up to 14.11.2017. Similarly, the base price of 6'' Aloo Patty was ₹135/-, which also remained constant till 14.11.2017. However, with effect from 15.11.2017, i.e. the date on which the notification reducing the rate of GST came into force, the Respondent increased the base price of 6'' Hara Bhara Kabab from ₹120/- to ₹133.30, and that of 6'' Aloo Patty from ₹135/- to ₹152.40.
47. If the argument advanced by Learned Counsel for the Respondent is accepted that the increase in base prices of 6'' Hara Bhara Kabab and 6'' Aloo Patty was on account of incremental royalty, advertisement contribution, lease rent, and commission payable to online aggregators, the Respondent has failed to substantiate the such price increases with cogent evidence. The Respondent also failed to justify the timing of increase in the base price with cogent evidence vis-à-vis increase in operation costs. In absence of such cogent evidence, the presumption goes against the Respondent and it indicate that

prices were increased by them arbitrarily without passing on the benefit to the consumers by way of commensurate reduction in prices of the commodities.

48. This Tribunal in *DGAP v. Urban Essence (Subway Franchisee)* [2025] 177 *taxmann.com* 376 (GSTAT - NEW DELHI), relying upon the observation made by the Hon'ble High Court of Delhi in *Reckitt Benckiser India Pvt. Ltd. v. Union of India* (*supra*) held that cogent, clear and un-equivocal evidences or materials must be brought on record to rebut a presumption that every reduction in the rate of GST is required to be passed on to consumers by way of commensurate reduction in prices. The Tribunal observed as under:

*“26. In Paragraph 119, the High Court of Delhi express that in agreement with the submission of learned Amicus Curiae that if there is any variation on account of other factors, such as any costs necessitating the setting off of such reduction of price, the same needs to be justified by the supplier. The inherent presumption that these must necessarily be a reduction in prices of the goods and services is a rebuttable presumption. It is clarified that if the supplier is to assert reasons for offsetting the reduction, it must establish the same on cogent basis and must not use it merely as a device to circumvent the statutory obligation of reducing the prices in a commensurate manner contemplated under Section 171 of the Act.*

*27. Thus, it is clear as per the provision 171 if there is a reduction in the rate of tax as it is the case here it must be passed on end user or consumer by commensurate reduction in price. However, in cases where there has been any increase in the base price of the product or any other market forces have pushed up the price of the base product then that has to be considered. There is a presumption, though it is a rebuttable one, that once there is a reduction in rate of GST then it must pass on to the consumers but such presumption can be rebutted by cogent, clear and un-equivocal evidences or materials. In this case, the Respondent has not produced any documents or any evidence to rebut such a presumption, either before the investigating agency or before this Tribunal or the Erstwhile NAA. The Respondent did not produce any document to show that the price of the base price of the product had increased after 14.11.2017. So, there is no rebuttal of the presumption that arises in favour of the DGAP's Report."*

*(emphasis supplied)*

49. The Respondent's action of increasing the base price on the very same date on which the notification reducing rate of tax came into force indicates that Respondent has will fully increase the basic price of the aforesaid items to maintain the same MRP that existed till 14.11.2017. Resultantly, the benefit of reduced tax rate could not be passed on to consumer. Moreover, the Respondent

has also failed to furnish any plausible explanation for modifying/increasing the base prices on 15.11.2017 itself when the notification came into effect.

50. As regards the contention advanced by Shri Nikhil Gupta, learned counsel for the Respondent, relating to the alleged inconsistency in the investigation period from 15.11.2017 to 30.09.2020, adopted by the DGAP, it is observed that the DGAP initially submitted its report on 20.08.2020. The matter was examined by NAPA which *vide* its interim order dated 13.04.2022, directed the DGAP to re-investigate the matter on two specific issues identified therein. One of the issues, as noted hereinbefore, pertained to the period of investigation, and the DGAP was directed to compute the profiteered amount for the period from 15.11.2017 to 30.09.2019, after consideration of the written submissions filed by the Respondent. Therefore, at this stage the Respondent cannot raise this dispute again about the period of investigation.
51. In view of the foregoing, we are of the view that the Respondent increased the base price of 6'' Hara Bhara Kabab and 6'' Aloo Patty on 15.11.2017, on the date when the notification for reduction in rate of tax came into force. As a result, the Respondent had indulged in profiteering by not passing on the benefit of reduction of rate of tax to the consumers by way of commensurate reduction in prices in terms of Section 171 of the CGST Act.
52. Learned Counsel for the Respondent agitated that interest cannot be levied for any period *prior* to the introduction of the statutory provision enabling

imposition of interest under Rule 133(3)(c) of the CGST Rules. It was therefore submitted that the Respondent is not liable to pay interest on the profiteered amount computed by the DGAP.

53. Rule 133(3)(c) of the CGST Rules, 2017 is reproduced here: -

*“(c) the deposit of an amount equivalent to 50 % of the amount determined under the above clause (along with the interest at the rate of 18 percent from the date of collection of the higher amount till the date of such amount) in the fund constituted u/s 57 of the Goods and Services Tax Act, 2017 of the concerned State, where the eligible person does not claim return of the amount or is not identifiable”*

54. The interest clause is inserted vide Notification No. 31/2019-Central Tax, dated 28.06.2019 w.e.f. 28.06.2019. Accordingly, the imposition of interest on the Respondent, can only be made with effect from 28.06.2019, and not for any period prior thereto, as also held by this Tribunal in **DGAP v. Proctor & Gamble Group (Supra)**. The Tribunal observed as under:

*“We agree to the argument advanced by the Learned Counsel for the Respondent that the provision of imposition of 18% interest on the profiteered amount shall come into force only to those cases which call after the notification on the amending (Fourth) Rule came into force, i.e. 28.06.2019 and not on 01.04.2020 ‘as argued by the Learned Counsel. However, in this case, profiteering took place much prior to*

*date of coming into force of such provisions for levying interest in view of the Constitution Bench Judgment of the Supreme Court in the case Vatika Township Pvt. Ltd. (Supra), we are of the opinion that this is not the fit case where Respondent should be directed to pay any interest on the profiteered amount. (C.I.T.(C-I) New Delhi vs. Vatika Township Pvt. Ltd. (2015) SCC 1.”*

55. In the instant case, since the period of violation is 15.11.2017 to 30.09.2019, the Respondent shall be liable to pay interest under Rule 133(3)(c) of the CGST Rules from 28.06.2019 till the date the profiteered amount as calculated by the DGAP is deposited.
56. Since the provisions of Section 171(3A) of the CGST Act for imposition of penalty have come into force w.e.f. 01.01.2020 whereas the period of investigation 01.07.2017 to 30.09.2019, hence the penalty prescribed under the above Section cannot be imposed on Respondent retrospectively.
57. Accordingly, the report of the DGAP dated 14.10.2022 is accepted.
58. The Respondent is directed to deposit the profiteered amount along with the interest @18% from 28.06.2019 to 30.09.2019. 50% of the profiteered amount along with the interest shall be deposited in the Central Consumer Welfare fund and remaining 50% amount along with the interest shall be deposited in Maharashtra Consumer Welfare fund.

59. The copy of the Judgement be sent to the Jurisdictional Commissioner  
CGST/SGST for information and necessary action there to.
60. The Judgement is pronounced in open court today.

Sd/-  
(Justice Mayank Kumar Jain)

**Dated: 20.02.2026**