

GSTAT
Court No. Court II
NAPA/94/PB/2025

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

.....Appellant

Versus

LUCKNOW DEVELOPMENT AUTHORITY, (KRITIKA AND SWATI PROJECT (133(4))

.....Respondent

Counsel for Appellant

Counsel for Respondent

Hon'ble Justice Sh. Mayank Kumar Jain, Member (Judicial)
Hon'ble Sh. A. Venu Prasad, 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 : Yes

Order reference no. : ZA070010426000137H

Date of order : 29/04/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - NAPA/94/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the Respondent - 1. Lucknow Development Authority, (Kritika and swati Project (133(4))	
5.	Order appealed against -	
	(5.1) Order Type -	

	(5.2) Ref Number -	Date -
6.	Personal Hearing - 29/04/2026 15/04/2026 26/02/2026 04/02/2026 07/01/2026 17/12/2025 14/11/2025 19/09/2025 18/07/2025 11/07/2025	
7.	Order in brief - The matter be referred to the DGAP for further investigation as provided under 133(4) of the CGST Rules, 2017.	
Summary of Order		
8.	If remanded with directions:	
	a) Remanded to: DGAP	
	b) Directions subject to which remanded, if any: The DGAP is thereby directed to further investigate and to take necessary action in the matter, on the following issues: - (i) The reversal of the ITC amounting Rs. 47,46,00,680.66/-in respect of the unsold inventories (ii) Whether the imposition of GST @12% on the alleged profiteering amount can be levied upon, particularly, when the benefit of ITC already been passed to the home-buyers in form of discounts, as accepted by the DGAP. (iii) The passing of Rs. 14,01,272/- (being 5% of the remaining amount) which is said to have been passed on to the home-buyers by the Respondent requires verification.	
9.	Type of order: Sent for re-investigation to DGAP	

ORDER

JUSTICE MAYANK KUMAR JAIN, JUDICIAL MEMBER

SHRI A. VENU PRASAD, MEMBER (TECHNICAL)

1. The present proceedings arise from a complaint made by Shri Ajay Saini, 137, Sakhambari Apartment, Madhurda, Kolkata- 700107 (hereinafter referred to as “**the Complainant**”) before the Standing Committee under

Rule 128 of the Central Goods and Services Tax Rules, 2017 (for short “**the CGST Rules, 2017**”). The Complainant has alleged that the M/s. Lucknow Development Authority (for short “**the LDA**”) (hereinafter referred to as “**the Respondent**”) has indulged in profiteering in contravention of Section 171 of Central Goods and Service Tax Act, 2017 (for short the “**CGST Act, 2017**”) insofar as it failed to pass on the benefit of reduction in GST rates in respect of construction services provided by the M/s. Lucknow Development Authority, Pradhikaran Bhawan, Vipin Khand, Gomti Nagar, Lucknow-226010.

2. It is alleged that the Respondent did not pass on the benefit of Input Tax Credit (for short “**ITC**”) to the Complainant by way of commensurate reduction in the prices on purchase of Flat No. F-3/401, in the project “Kritika & Swati Apartment” situated at Chak, Gujaria, Lucknow on introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of the CGST Act, 2017.
3. The Complaint was examined by the Standing Committee on Anti-profiteering and the same was forwarded to the Director General of Anti Profiteering (hereinafter referred to as “**the DGAP**”) under Rule 129(1) of the CGST Rules, 2017.
4. Meanwhile, the Judgment in *Reckitt Benckiser India Private Limited & Ors. V. Union of India & Ors. (2024) 14 Centex 374 (Delhi)* was delivered the Hon’ble High Court of Delhi. Therefore, the methodology was followed by the DGAP in accordance with the findings given by the Hon’ble High Court in the said Judgment.
5. The period covered by the current investigation is from 01.07.2017 to 20.03.2020.
6. A notice was issued to the Respondent calling upon their reply, as to whether, the Respondent admit that the benefit of ITC had not been passed on to their customers by way of commensurate reduction in prices and, if so,

to *suo moto* determine the quantum thereof and indicate the same in their reply and furnish all necessary documents.

7. The Respondent participated in the investigation and submitted documents as desired by the DGAP.
8. Upon completion of the investigation, the DGAP submitted its report dated 30.01.2026 under Rule 129(6) of the CGST Rules, 2017. The said report contains *inter-alia*, the following observations and conclusions: -
 - (i) That the LDA is incorporated under "The Uttar Pradesh Urban Planning and Development Act, 1973" in order to ensure that development within Lucknow is orderly and is "not for profit".
 - (ii) That the respondent has reduced the price of the units for the allottees therefore, they were not required to issue any Credit Note.
 - (iii) That the benefit of ITC has been passed on to all allottees through an office order, resulting reduction in the cost of the flats.
 - (iv) The LDA has not claimed any credit of Central Value Added Tax (CENVAT) in the erstwhile Service Tax regime.
 - (v) The LDA opted old scheme under Notification No. 03/2019-Central Tax dated 29.03.2019, wherein GST was paid after availing ITC on the inputs and input services.
 - (vi) The LDA passed on the benefit of the ITC in the initial period itself to the tune of 95%, vide Orders of Vice Chairman, LDA vide file No. 938/F.C./2019-20 dated 12.02.2020.
9. The DGAP considered that the project "Kritika & Swati Apartment" was consisting of 864 units. The Occupation Certificate (for short "the OC")

was issued for all units on 20.03.2020. Out of total number of 864 units, 145 units were not sold till the date of issuance of the OC. Therefore, these 145 units were kept out of the scope of the investigation in view of the para 5 of the Schedule-III of the CGST Act, 2017. Total number of 719 units were considered for the purpose of investigation.

10. The methodology adopted by the DGAP is tabulated hereunder: -

(Amount in Rs.)

1	2	3	4
S. No.	Particulars	Pre-GST Period	Post-GST Period
1	Credit of Service Tax availed (A)	0	-
2	Credit of VAT availed (B)	0	-
3	ITC of GST Availed (C)	-	9,20,96,368
4	Total Credit Availed (D=A+B+C)	0	9,20,96,368
5	Purchase Value of Goods and Services (Excluding Taxes and Duties) (E)	34,70,02,151	74,36,74,054
6	Ratio of Credit Availed to Purchase Value (in %) (F= D*100/E)	0.00	12.38
7	Difference between pre-GST and post-GST ration of credit availed to purchase value	12.38	

11. The DGAP calculated the profiteered amount tabulated hereunder: -

(Amount in Rs.)

Particulars		Post-GST
Period	A	July, 2017 to March, 2020
Ratio of Credit availed to Purchase Value as per Table – A above (%)	B	0/12.38

Increase in Input tax credit availed Post-GST (%)	C	12.38
Purchase Vale of Goods and Services (Excluding Taxes and Duties) during Post-GST period	D	74,36,74,054
Total savings on account of additional ITC benefit	$E = D * C / 100$	9,20,66,848
Total Saleable Area (in Sq. Mtr.)	F	46,062.77
Total Saving Per Sq. Mtr.	$G = E / F$	1998.73
Total Sold Area (in Sq. Mtr.)	H	38,298.64
Profiteered Amount	$I = G * H$	7,65,48,641

12. During the investigation, the DGAP has taken into consideration that the respondent had passed on 95% benefit of ITC to the homebuyers. The details of the passing of the benefit of ITC is tabulated hereunder: -

(Amount in Rs.)

S. No.	Category of buyers	No. of Units	Area (in Sq. Mtr.)	Amount of Profiteering (including GST)	Benefit claimed to have been passed on	Benefit to be passed on
1	Benefit to be passed on (Applicant) (Flat Area 57.84 Sq. Mtr.)	1	57.84	1,29,479	1,07,219	22,260
2	Benefit to be passed on (Kritika & Swati Apartment) (Flat Area 56.1 Sq.Mtr., 57.84 Sq.Mtr., 59.22 Sq.Mtr., 64.3 Sq.Mtr.& 64.33 Sq.Mtr.)	712	37,847.56	8,47,24,700	7,01,58,987	1,45,65,713

3	Benefit required to be passed on (Flat Area 65.54 Sq.Mtr., (Area not mentioned in Office Memo dated 12.02.2020)	6*	393.24	8,80,298	0	8,80,298
4	Total	719	38,298.64	8,57,34,478	7,02,66,207	1,54,68,271

*The Area of 65.54 Sq. Mtr. is not mentioned in the Office Memo dated 12.02.2020 and hence, it is not considered for calculation of profiteering.

13. On the basis of the above, the DGAP concluded that even after passing of 95% of the benefit of the ITC to the homebuyers, the Respondent has indulged in profiteering. Thus, the Respondent has contravened the provision under Section 171 (1) of the CGST Act 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. A notice was issued to the Respondent calling upon their written submissions against DGAP report dated 30.01.2026.
16. The Respondent submitted its written submissions with the following averments that: -
 - (i) The complete list of reversal made on unsold inventories amounting to Rs. 47,46,00,680.66/- which was furnished through GSTR-3B of March, 2020. A sum of Rs. 70,92,456.77/- was reversed proportionate to unsold inventories in respect of the project on account of payment made to M/s. Maa Vaishno Infra Contract. This issue was already adjudicated upon by CGST Audit Commissionerate, Lucknow but the final audit report does not include the adjudication as recorded by the said Authority.

- (ii) The figure of reversal amount of Rs. 70,92,456.77/- was duly verified by the Chartered Accountant (CA).
- (iii) Since, the GST registration is single, therefore, all reversals have to be disclosed in the same GST return as they cannot be segregated project-wise. Therefore, the reversal was duly verified by the CGST Audit Commissionerate which should have been taken into consideration by the DGAP.
- (iv) The benefit of the ITC to the extent of 95% homebuyers has been passed on in form of discount and was reduced from the taxable value. Once taxable value has been reduced by way of discount and this fact was accepted by the DGAP, then imposition of 12% GST to the extent of the discount is incorrect.
- (v) Insofar as six homebuyers, who initially booked the flat comprising area of 57.84 sq. mtr. is concerned, the allotment made to two allottees namely Mr. Karan Goel and Mr. Ram Prasad Yadav were cancelled. At the time of allotment, the area of the flats was having measurement of 57.84 sq. mtr. However, on actual area at the time of registry was compute as 65.54 sq. mtr. per flat. The said facts were also mentioned in the home-buyers list submitted by the Respondent.
- (vi) Later on, the Respondent had passed on the remaining 5% i.e., Rs. 14,01,272/- benefit of ITC to concerned homebuyers. The passing of such benefit has been duly acknowledged by the homebuyers. Therefore, the Respondent did not contravene the provision under Section 171 of CGST Act, 2017.

17. The perusal of the DGAP report reflects that it is an admitted fact that the Respondent has passed on 95% of benefit of the ITC amounting to Rs. 7,02,66,207/- to their home-buyers. Therefore, only the remaining 5% of the

amount was to be passed on to the home-buyers which is now said to have been passed on by the Respondent.

18. The DGAP although considered this fact that the Respondent has reversed ITC of Rs. 47,46,00,680.66/- but it was not appreciated in the light of fact that the Respondent was executing multiple projects simultaneously.
19. Insofar as the contentions raised by the Learned Counsel for the Respondent that the reversal of the ITC was duly considered by the GST Authorities is concerned in our opinion this fact should have been examined by the DGAP during the course of investigation.
20. Insofar as the non-passing of the benefit to six home-buyers is concerned the status of cancellation of booking of two home-buyers as well the arguments that the Respondent has subsequently passed on the benefit to these home-buyers requires verification by the DGAP on the basis of the records of the Respondent.
21. In view of the above, we are of the considered opinion that the matter be referred to the DGAP for further investigation as provided under 133(4) of the CGST Rules, 2017.
22. The DGAP is thereby directed to further investigate and to take necessary action in the matter, on the following issues: -
 - (i) The reversal of the ITC amounting Rs. 47,46,00,680.66/-in respect of the unsold inventories
 - (ii) Whether the imposition of GST @12% on the alleged profiteering amount can be levied upon, particularly, when the benefit of ITC already been passed to the home-buyers in form of discounts, as accepted by the DGAP.
 - (iii) The passing of Rs. 14,01,272/- (being 5% of the remaining amount) which is said to have been passed on to the home-buyers by the Respondent requires verification.

23. The DGAP is directed to afford an opportunity of hearing to the Respondent as per the Principle of Natural Justice.
24. The Respondent is directed to cooperate with the investigation to be made by the DGAP and to produce relevant records as desired during investigation.
25. The office is directed to send the copy of this order to concerned parties.

(Justice Mayank Kumar Jain)

(Sh. A. Venu Prasad)

Dated: 29.04.2026
(Mamta Verma)