

GSTAT
Single Bench Court No. Court IV

NAPA/64/PB/2025

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

.....Appellant

Versus

ASSOTECH LTD.

.....Respondent

Counsel for Appellant

Counsel for Respondent

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 : No

Order reference no. : ZA070010426000145H

Date of order : 29/04/2026

1.	GSTIN/Temporary ID/UIN - 09AABCA0909N1ZM	
2.	Appeal Case Reference no. - NAPA/64/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Assotech Ltd. , cksingh3877@gmail.com , 0120-4802222	
5.	Order appealed against -	
	(5.1) Order Type -	

	(5.2) Ref Number -	Date -
6.	Personal Hearing - 29/04/2026 22/04/2026 07/04/2026 12/03/2026 05/02/2026 23/12/2025 08/12/2025 10/11/2025 08/09/2025 18/08/2025 11/08/2025 09/07/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - the Respondent is directed to pass on the remaining profiteered amount of Rs. 4,01,676/-, along with applicable GST @ 12% amounting to Rs. 48,201/-, aggregating to Rs. 4,49,877/-, to the eligible homebuyers, as detailed in Annexure-17 of the DGAP Report. The aforesaid profiteered amount shall be refunded along with interest at the rate of 18% per annum, in terms of Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017, from the date of collection of such excess amount from the homebuyers till the date of its actual refund.	
Summary of Order		
9.	Type of order : Return to Recipient of Amount not passed on, along with interest	

Place :DELHIPB

Signature

Date : 29.04.2026

DELHIPB Shri Manmohan Sharma

Designation : Stenographer/Law researcher

Jurisdiction :Delhi (PB)

ORDER

1. The present proceedings arise from a complaint made by Shri Rishabh Jain, 19-J, UGF, Naveen Shahdara, Delhi-110032 (hereinafter referred to as “the Complainant”) under Rule 128 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “the CGST Rules”), alleging profiteering in respect of Construction Services supplied by M/s Assotech Ltd. (GSTIN:

09AABCA0909N1ZM) address: H-27, Ground Floor, Sector-63, Noida–201309 (hereinafter referred to as “the Respondent”) for the project “Assotech Windsor Court Society.

2. The Complainant alleged that the Respondent had not passed on the benefit of Input Tax Credit (hereinafter referred to as “ITC”) to him by way of commensurate reduction in prices in respect of the purchase of Flat No. G-A0009 on the Ground Floor in the Respondent’s project “Assotech Windsor Court”, upon introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of the Central Goods and Services Tax Act, 2017.
3. The said complaint was examined by the Standing Committee on Anti-Profiteering in its meeting held on 05.08.2019, and the minutes of the said meeting were forwarded to the Directorate General of Anti-Profiteering (hereinafter referred to as “the DGAP”) for detailed investigation under Rule 129(1) of the CGST Rules, 2017.
4. The Directorate General of Anti-Profiteering (DGAP) submitted its Report dated 24.11.2025, which is delineated as under: -
 - 4.1. The Respondent is mainly engaged in the business of Builders and Developers. They had commenced project “Assotech Windsor Court Society” and the said project comprised of 744 Units. Out of the 744 Units, 524 units were constructed pre-GST, 192 were constructed post -GST and 12 remained unsold and 16 were demolished by the Authority concerned.

4.2. The DGAP conducted an investigation for the period 01.07.2017 to 31.03.2024.

4.3. The DGAP had computed the profiteered amount by comparing the ratio of ITC to purchase value in the pre-GST and post-GST periods on the basis of the data submitted by the Respondent, and the same has been tabulated in Table-A as given below:

Table- A

Sr. No.	Particulars	Pre- GST Period	Post- GST period
1	Purchase Value of Goods and Services (Excluding Taxes and Duties)	79,81,77,707	44,59,45,939
2	Credit of Service Tax availed	3,30,63,145	-
3	Credit of VAT availed	4,43,92,537	-
4	Total Credit Availed in Pre-GST Period	7,74,55,682	-
5	Net ITC of GST Availed	-	5,30,17,380
6	Ratio of Credit Availed to Purchase Value (in %)	9.70	11.89
	Difference		2.18

Based on the above findings, the DGAP has computed the profiteered amount by applying the additional ITC benefit of 2.18% on the post-GST purchase value and distributing the same on a per square foot basis to the buyers, as tabulated in Table-B below:

Table – B

Particulars		Post- GST
Period	A	July 2017 to 31.03.2024
Ratio of Credit availed to Purchase Value as per Table-A above (%)	B	9.70% / 11.89%
Increase in input tax credit availed Post- GST (%)	C	2.18%
Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	44,59,45,939
Total savings on account of additional ITC benefit	$E = D * C / 100$	97,42,497
Total saleable area (in Sq. Ft.) as per the list of buyers	F	11,04,420
Total saving per Sq. Ft.	$G = E / F$	8.82/-
Total Sold Area (in Sq. Ft)	H	4,55,470
Base Profiteered Amount	$I = G * H$	40,17,869

From Table–A and Table B, it is observed that the additional ITC benefit of 2.18% ought to have resulted in a commensurate reduction in prices. However, the Respondent has not passed on the said benefit fully and uniformly to the homebuyers. Accordingly, in terms of Section 171 of the CGST Act, 2017, the DGAP has computed profiteering of Rs. 40,17,869/- , and after adding GST @ 12%, the total profiteered amount comes to Rs. 45,00,014/-, which was required to be passed on to the eligible homebuyers.

4.4. Further, the Respondent had claimed to have passed on the benefit of ITC amounting to Rs. 5,75,26,106/- to 267 homebuyers, which was duly

acknowledged by the homebuyers. However, the benefit has not been passed on uniformly, in as much as excess benefit has been passed to certain homebuyers, while there is a shortfall in others, and in some cases no benefit has been passed. Consequently, an amount of Rs. 4,01,676/- (Rs. 1,70,865/- + Rs. 2,30,811/-), along with applicable GST of Rs. 48,201/-, remains to be passed on to the concerned homebuyers.

5. The Report was received by the Principal Bench, GSTAT on 24/26.11.2025, and a notice dated 31.12.2025 was issued to the Respondent, with intimation to the Complainant, directing the Respondent to file written submissions on the DGAP Report.
6. However, neither the Respondent nor the Complainant filed any written submissions in response to the DGAP Report.
7. Hearings in the matter were held on 09.07.2025, 23.12.2025 and 22.04.2026. Shri Achal Sharma, Chartered Accountant, and Shri Chandra Kishore Singh appeared for the Respondent. Shri Suraj Kumar Roy, Additional Assistant Director, assisted by Shri Ravi Passi, appeared for the Directorate General of Anti-Profiteering. None appeared for the original Complainant.
8. The Authorised Representative of the Respondent, during the hearing held on 22.04.2026, submitted that the Respondent is in agreement with the findings of the DGAP Report and is willing to refund the balance amount to the concerned homebuyers.

Issues for Determination:

9. In view of the DGAP Report and the submissions made by the parties, the following issues arise for determination:
- (i) Whether the Respondent had derived any additional benefit of the Input Tax Credit consequent to the introduction of GST?
 - (ii) If so, whether such benefit has been passed on to the homebuyers by way of commensurate reduction in prices in terms of Section 171 of the CGST Act, 2017?
 - (iii) Whether the Respondent is liable to return the profiteered amount along with applicable interest, and if so, what is the quantum of such refund?
 - (iv) Whether penalty under Section 171(3A) of the CGST Act, 2017 is attracted in the fact and circumstances of the present case, if so, what is the quantum of penalty?

Determination of Profiteering and Passing on of ITC Benefit:

10. It is not in dispute that upon the introduction of GST w.e.f. 01.07.2017, the Respondent became entitled to avail Input Tax Credit on a wider base of inputs and input services used in the construction of the project. The GST regime subsumed multiple indirect taxes such as VAT, Service Tax, Central Excise duty and Entry Tax, thereby enabling seamless availability of ITC across goods and services. In contrast, under the pre-GST regime, input tax credit was fragmented and tax-specific, resulting in cascading of taxes and embedded tax

costs in the pricing of construction services. The introduction of GST eliminated such cascading by allowing cross-utilisation of credit, thereby enhancing tax efficiency and improving cost transparency in the construction sector.

11. With regard to Issue Nos. (i) and (ii) above, it is evident from the DGAP Report that the Respondent has derived the benefit of additional Input Tax Credit consequent to the introduction of GST. The ratio of Input Tax Credit to purchase value has increased from 9.70% in the pre-GST period to 11.89% in the post-GST period, resulting in an additional benefit of 2.18%. Such benefit was required to be passed on to the homebuyers by way of commensurate reduction in prices in terms of Section 171 of the CGST Act, 2017. However, the Respondent has not passed on the said benefit fully and uniformly, thereby contravening the provisions of the Act.
12. It is further observed that the Respondent has claimed to have passed on the benefit of ITC amounting to Rs. 5,75,26,106/- to certain homebuyers. However, as per the DGAP Report, the benefit has not been passed on uniformly, resulting in excess benefit in some cases and shortfall or non-passing in others. Consequently, an amount of Rs. 4,01,676/-, along with applicable GST, remains to be passed on to the concerned homebuyers.

Levy of GST on the Profiteering Amount:

13. With regard to the levy of GST @ 12% on the profiteered amount, it is observed that the DGAP has computed the base profiteered amount at Rs. 40,17,869/-,

and thereafter added GST @ 12% amounting to Rs. 4,82,144/-, arriving at a total profiteered amount of Rs. 45,00,014/-. The computation of profiteering has been carried out on the basis of the ratio of Input Tax Credit to purchase value of goods and services, which is exclusive of GST. However, the consideration collected by the Respondent from the homebuyers is inclusive of GST. Accordingly, the amount realised by the Respondent inherently includes the GST component, and therefore, the profiteered amount is required to be returned along with the corresponding GST component.

14. In view of the above, the inclusion of GST in the profiteered amount is found to be justified. Reference in this regard may be made to the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd. v. Union of India, W.P. (C) 7743/2019***, wherein it has been held that GST collected on the additional realisation forms part of the profiteered amount and is liable to be returned to the recipients. The relevant extract is reproduced below for the sake of brevity:

157. Both the Central as well as the State Government had no intent of collecting additional Goods and Services Tax on the higher price as they had sacrificed their revenue in favour of the buyer. By compelling the buyers to pay the additional Goods and Services Tax on a higher price, the supplier has not only defeated the intent of the Governments but has also acted against the interest of the consumer and therefore, the Goods

and Services Tax collected by him on the additional realization has rightly been included in the profiteered amount.

Interest:

15. The next issue for determination is whether interest is payable on the amount not passed on and, if so, the period for which such interest is to be computed. Section 171 of the CGST Act, 2017 casts a statutory obligation upon the Respondent to pass on the benefit of reduction in tax rate or availability of additional Input Tax Credit to the recipients by way of commensurate reduction in prices at the time of supply. Further, Rule 133(3)(b) of the CGST Rules, 2017 empowers this Authority to order return of the amount not passed on, along with interest at the rate of 18% per annum, from the date of collection of the higher amount till the date of its actual return. The said provision is mandatory in nature.
16. With regard to the issue of interest, reference may be made to the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Pvt. Ltd. v. Union of India, WP (C) 7743/2019***, wherein the Hon'ble Court has dealt with this issue in paragraph 153 of the judgment. The relevant extract is reproduced below:

153. This court is of the view that Section 171 of the Act, 2017 is broad enough to empower the Central Government to prescribe penalty and interest to ensure that the suppliers are deterred from pocketing the benefits meant for the consumers when taxes amounts so pocketed by the supplier /registered person would not have a sufficient deterrent effect on

deviant behavior unless interest and penalty are levied to prevent such actions from taking place in the first place. The width and amplitude of Section 171 by which the authority is empowered to ensure that a reduction in tax rate or the Input Tax Credit availed results in a commensurate reduction in the price of goods or services clearly encompasses within it the power to ensure that such conduct which leads to profiteering does not take.”

17. The Provisions with respect to interest are as follows: -

Rule 133(3)(b) – return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with the interest at the rate of eighteen percent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be.

Penalty:

18. Further, insofar as penalty under Section 171(3A) of the CGST Act, 2017 is concerned, it is observed that the said provision came into force w.e.f. 01.01.2020. In the present case, the period of investigation extends from 01.07.2017 to 31.03.2024, and therefore includes the period subsequent to the coming into force of the said provision. Accordingly, penalty under Section 171(3A) is attracted in respect of the profiteered amount not passed on for the period post 01.01.2020. The relevant provision reads as under:

“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.”

Conclusion:

19. I have carefully examined the DGAP Report, the documents placed on record, and the submissions, including the acceptance of the Respondent. Upon perusal of the material on record, it is found that the Respondent has contravened the provisions of Section 171 of the Central Goods and Services Tax Act, 2017 in the present case to the extent of Rs. 40,17,869/-, along with GST @ 12% amounting to Rs. 4,82,144/-, aggregating to Rs. 45,00,014/- (Rupees Forty-Five Lakh Fourteen Only).
20. However, after taking into account the amount already passed on by the Respondent to the homebuyers, the Respondent is directed to pass on the remaining profiteered amount of Rs. 4,01,676/-, along with applicable GST @ 12% amounting to Rs. 48,201/-, aggregating to Rs. 4,49,877/-, to the eligible homebuyers, as detailed in Annexure-17 of the DGAP Report.

21. It is further observed that, out of 284 homebuyers, the Respondent has passed on excess benefit to 232 homebuyers, has passed on lesser benefit in respect of 35 homebuyers, and has not passed on any benefit to 17 homebuyers. Accordingly, the aforesaid amount pertains to the balance benefit required to be passed on to 52 homebuyers.
22. The aforesaid profiteered amount shall be refunded along with interest at the rate of 18% per annum, in terms of Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017, from the date of collection of such excess amount from the homebuyers till the date of its actual refund. The provision with respect to interest are as follows:

Rule 133(3)(b) – return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with the interest at the rate of eighteen percent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be.

23. This Order shall be complied with within a period of 30 days from the date of its issuance. In case of non-compliance within the stipulated period, penalty shall be liable to be imposed under Section 171(3A) of the CGST Act, 2017. The relevant provision reads as under:

“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”.

24. A compliance report of this Order shall be submitted to the jurisdictional Commissioner, with intimation to the DGAP, within a period of three months from the date of this Order.
25. A copy of this Order be forwarded to the Respondent, the Applicant, the Directorate General of Anti-Profiteering, and the jurisdictional CGST/SGST Commissioner(s) for necessary action and record.
26. The matter stands disposed of accordingly.
27. Order pronounced in the open court.

(Sh. A. Venu Prasad)

Dated: 29.04.2026