

**GSTAT**

**Court No. Court III**

**NAPA/237/PB/2025**

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

.....Appellant

**Versus**

BELHEKAR & KALE ASSOCIATES

.....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. : ZA070010526000005H**

**Date of order : 05/05/2026**

<b>1.</b>	GSTIN/Temporary ID/UIN - 27AADAB3688B1ZW	
<b>2.</b>	Appeal Case Reference no. - NAPA/237/PB/2025	Date - 31/08/2021
<b>3.</b>	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
<b>4.</b>	Name of the respondent - 1. Belhekar & Kale Associates , belhekarandkale@gmail.com , 9657729044	
<b>5.</b>	Order appealed against -	
	<b>(5.1) Order Type -</b>	
	<b>(5.2) Ref Number -</b>	Date -
<b>6.</b>	Personal Hearing - 05/05/2026 29/04/2026 02/04/2026 24/02/2026	
<b>7.</b>	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	

8. Order in brief - The consistent default on the part of the Applicant, and considering that no written submissions or objections to the DGAP report have been filed despite multiple opportunities, the Tribunal is left with no option but to proceed based on the DGAP report and the documents available on record. The DGAP findings have been duly considered along with the documents submitted by the Respondent. It is evident that the entire procurement and execution of the project occurred in the post-GST period, and consequently, in light of Paragraph 128(d) of the Hon&#039;ble High Court of Delhi in Reckitt Benckiser India Private Limited v. Union of India [2024 SCC Online Del 588] dated 29.01.2024, no benefit of Input Tax Credit is required to be passed on, as the contract price is deemed to have been fixed taking into account the post-GST tax structure. In view of the above, the DGAP report dated 21.01.2026 is accepted. It is held that the provisions of Section 171 of the CGST Act, 2017 have not been contravened by the Respondent. The proceedings stand closed.

### Summary of Order

9. Type of order : Closure Report

Place :DELHIPB

Date : 05.05.2026

Signature

DELHIPB Sudesh Kumar

Designation : Stenographer/Law researcher

Jurisdiction :Delhi (PB)



## ORDER

1. The proceedings in the present case arise out of an application filed by M/s Mumbai Port Trust Authority, Port Bhavan, Shoorji Vallabhdas Marg, Ballard Estate, Mumbai - 400001 (hereinafter referred to as "**the Applicant**") under Rule 128 of the Central Goods and Services Tax Rules, 2017, alleging violation of the provisions of Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "**the Act**") by M/s Belhekar & Kale Associates, 2nd Office No. 201, C S No 3095 Plot No 67A 67/1 67 2 3, Ashok Sankul, Shivaji Nagar, Pune, Maharashtra, 411007 (hereinafter referred to as "**the Respondent**") in respect of the works contract for "Modernization of MICT".
2. The Standing Committee on Anti-profiteering examined the application and referred the matter to the Directorate General of Anti-Profiteering ("**DGAP**") for investigation under Rule 129 of the CGST Rules, 2017.
3. The DGAP submitted its investigation report dated 21.01.2026 in which the DGAP concluded that the instant case of Belhekar & Kale Associates is not a case of construction of flats or homes by a builder rather it a case of the works contract executed by Private firms for a Government Agency under obligation of a detailed tender which was all inclusive of taxes. The subject tender was floated on 25.05.2017 in the pre-GST regime, however, the Letter of Acceptance was issued on 08.08.2017 and the work actually commenced on 03.02.2018, both falling well after the implementation of GST on 01.07.2017. The report further observed that no procurement of inputs or execution of work had taken place in the pre-GST regime, thereby rendering any comparison of Input Tax Credit ("**ITC**") between the pre-GST and post-GST periods impossible. The DGAP has also observed that the Applicant had unilaterally withheld the amount of Rs.22.66 crores from the Respondent's bills on account of alleged profiteering without any legal authority under Section 171 of the CGST Act, 2017. Accordingly, the DGAP found no contravention of Section 171 of the CGST Act, 2017.
4. The matter was initially listed for hearing on 24.02.2026. On that date, Shri Anurag Gupta, Inspector, appeared on behalf of the DGAP, and Shri Aumkar Gadgil, Chartered Accountant, appeared on behalf of the Respondent along with Shri Mahesh Kale, Partner of the Respondent. However, none appeared on behalf of the Applicant. The Tribunal was informed that the Applicant had not filed any written submissions till that date. Therefore, in the interest of natural justice, the Applicant was given another opportunity to file their written submissions. Accordingly, the matter was fixed for hearing on 02.04.2026.
5. Hearing was held on 02.04.2026. Shri Parveen Kumar, Superintendent, appeared on behalf of the DGAP, and Shri Aumkar Gadgil, Chartered Accountant, appeared on behalf of the Respondent. However, none appeared on behalf of applicant, nor filed any written submissions on the DGAP's Report. The Learned Chartered Accountant for the Respondent informed that they had not received any objection to the DGAP report from the Applicant. Consequently, in the interest of natural justice, the Applicant was given a last opportunity to file written submissions. The matter was then listed for hearing on 29.04.2026.
6. On 29.04.2026, the matter was taken up again. Shri Praveen Kumar, Additional Assistant Director,

appeared on behalf of the DGAP, and Shri Aumkar Gadgil, Learned Chartered Accountant, appeared on behalf of the Respondent. Non appeared on behalf of the Applicant. The office informed that the proceedings of the last hearing were duly communicated to the Applicant through email as well as through post. However, no response has been received from the Applicant till date. The Learned Chartered Accountant for the Respondent pleaded that the proceedings may be concluded by accepting the DGAP's report, as enough opportunities had already been given to the Applicant to file objections. The Authorized Representative of the DGAP also submitted that the DGAP report may be accepted. I find that despite sufficient opportunities having been afforded, the Applicant neither appeared before this Tribunal nor placed any written submissions on record, which means the applicant has nothing to say on the DGAP's report.

7. In view of the aforesaid consistent default on the part of the Applicant, and considering that no written submissions or objections to the DGAP report have been filed despite multiple opportunities, the Tribunal is left with no option but to proceed based on the DGAP report and the documents available on record. The DGAP findings have been duly considered along with the documents submitted by the Respondent. It is evident that the entire procurement and execution of the project occurred in the post-GST period, and consequently, in light of Paragraph 128(d) of the Hon'ble High Court of Delhi in *Reckitt Benckiser India Private Limited v. Union of India [2024 SCC OnLine Del 588]* dated 29.01.2024, no benefit of Input Tax Credit is required to be passed on, as the contract price is deemed to have been fixed taking into account the post-GST tax structure.
8. In view of the above, the DGAP report dated 21.01.2026 is accepted. It is held that the provisions of Section 171 of the CGST Act, 2017 have not been contravened by the Respondent. The proceedings stand closed.
9. A copy of this order be forwarded to the Respondent, the Applicant, and the jurisdictional CGST/SGST Commissioner for information and necessary action.
10. Pronounced in open court on 05.05.2026

(Sh. Anil Kumar Gupta)

**Dated: 05.05.2026**