

GSTAT
Single Bench Court No. Court III
NAPA/80/PB/2025

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

Versus

TOWNPARK BUILDCON 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. :
ZA070010726000011H

Date of order :
02/07/2026

1.	GSTIN/Temporary ID/UIN - 09AAECT3612L1Z6	
2.	Appeal Case Reference no. - NAPA/80/PB/2025	Date - 09/01/2025

3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544
4.	Name of the respondent - 1. Townpark Buildcon Pvt. Ltd. , townparkBuildcon@gmail.com , 8860999174
5.	Order appealed against -
(5.1) Order Type -	
(5.2) Ref Number -	
	Date -
6.	Personal Hearing - 02/07/2026 22/05/2026 28/04/2026 23/03/2026 15/01/2026 28/10/2025 02/09/2025 19/08/2025 12/08/2025 10/07/2025
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief- The Report of the DGAP dated 08.12.2025 is accepted. The Respondent is directed to refund the total remaining profiteered amount of Rs. 11,13,155/-, which is inclusive of GST @ 12%, to the 149 eligible homebuyers along with interest at the rate of 18% per annum, in terms of Rule 133(3)(b) of the CGST Rules, 2017. Compliance report shall be submitted within a period of two months from the date of this Order.
Summary of Order	
9.	Type of order : Return to Recipients of Amount not passed on, along with interest.

Place :DELHIPB

Date : 02.07.2026

ORDER

**GOODS & SERVICES TAX APPELLATE TRIBUNAL (GSTAT)
PRINCIPAL BENCH, NEW DELHI
ANTI-PROFITEERING DIVISION**

Case No. NAPA/80/PB/2025

Brief Facts of the Case:

- 1.** The present proceedings arise from an application filed by Shri Varun Goel (hereinafter referred to as **‘the Applicant’**) under Rule 128 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as **‘the CGST Rules, 2017’**). The application alleged profiteering by M/s Townpark Buildcon Pvt. Ltd. (hereinafter referred to as **‘the Respondent’**) in respect of the purchase of Flat No. T-2/1205 in the Respondent’s project **“White Orchid”**, situated in Greater Noida, Uttar Pradesh.
- 2.** The Applicant alleged that the Respondent had not passed on the benefit of Input Tax Credit (ITC) to him by way of commensurate reduction in the price of the flat upon introduction of Goods and Services Tax (GST) w.e.f. 01.07.2017, thereby contravening Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as **‘the CGST Act, 2017’**).
- 3.** The Standing Committee on Anti-Profiteering, in its meeting, examined the application and forwarded the same to the Director General of Anti-Profiteering (hereinafter referred to

as **‘the DGAP’**) for a detailed investigation under Rule 129(1) of the CGST Rules, 2017.

4. The investigation was subject to the binding directions of the Hon’ble High Court of Delhi in its judgment dated 29.01.2024 in *Reckitt Benckiser India Private Limited v. Union of India* [2024 SCC OnLine Del 588]. The relevant paragraphs of the said judgment are extracted as under:

“124. This Court is of the view that no fixed/uniform method or mathematical formula can be laid down for determining profiteering as the facts of each case and each industry may be different. The determination of the profited amount has to be computed by taking into account the relevant and peculiar facts of each case. There is no one size that fits all formula or method that can be prescribed in the present batch of matters. Consequently, NAA has to determine the appropriate methodology on a case to case basis keeping in view the peculiar facts and circumstances of each case.”

“128. There is no dispute with regard to the methodology to be adopted in the following four scenarios: (a) ... (b) If the construction of the flat had started in the pre-GST period and continued/completed in the post-GST period and a buyer purchased the flat by making full upfront payment in the post-GST period, he is entitled to the benefit of Input Tax Credit on the material which has been purchased in respect of this flat during the post-GST period and on which benefit of Input Tax Credit has been availed by the builder. The builder has to reduce the price commensurately and pass on the benefit. ... (c) ... (d) ...”

“129. However, this Court finds that the methodology adopted by NAA and DGAP to arrive at the profiteering amount of the real estate industry was generally based on the difference between the ratio of Input Tax Credit to turnover under the pre-GST and post-GST period. This Court is in agreement with the contention of the learned counsel for the petitioners representing the real estate companies that the methodology adopted by NAA is flawed as in the real estate sector, there is no direct correlation between the turnover and the Input Tax Credit availed for a particular period. The expenses in a real estate project are not uniform throughout the life cycle of the project and the eligibility of credit depends on the nature of the construction activity undertaken during the particular period. As it is an admitted position that neither the advances received nor the construction activity is uniform throughout the life cycle of the project, the accrual of Input Tax Credit is not related to the amount collected from the buyers. This Court is in agreement with learned counsel of the petitioners that one needs to calculate the total savings on account of introduction of Goods and Services Tax for each project and then divide the same by total area to arrive at the per square feet benefit to be passed on to each flat buyer. This would ensure that flat-buyers with equal square feet area received equal benefit.”

- 5.** Pursuant to the above judgment, the DGAP issued a Notice of Investigation dated 10.04.2024 to the Respondent under Rule 129 of the CGST Rules, 2017. The period of investigation, as recorded in the DGAP report, was from 01.07.2017 to

31.03.2024; however, the determination of the period of contravention, i.e., the period during which the Respondent is alleged to have profiteered and failed to pass on ITC benefit, is distinct from the period of investigation.

- 6.** The Respondent had received the Occupancy Certificate for the project “White Orchid” on 22.11.2019; therefore, no further construction activity or ITC accrual pertains to the homebuyers covered under the investigation. Consequently, the DGAP, for calculation purposes, restricted the computation of the profiteered amount for the period from 01.07.2017 to 22.11.2019. The period from 23.11.2019 onwards was excluded from the scope of the calculation, as the Respondent’s obligation to pass on ITC benefit to the homebuyers of the said project ceased upon issuance of the Occupancy Certificate.
- 7.** The DGAP, following the mandate of the Hon’ble Delhi High Court in *Reckitt Benckiser (supra)*, adopted the methodology of calculating total savings on account of the introduction of GST for the project and dividing the same by total area to arrive at the per square feet benefit. The DGAP’s investigation encompassed the project “White Orchid,” which comprised a total of 483 units with a total saleable area of 6,16,128 sq. ft. Out of these, 412 units (saleable area of 5,36,762 sq. ft.) booked before receipt of the Occupancy Certificate were covered under the investigation.
- 8.** The DGAP, after examining the CA-certified annexures, GST returns, VAT returns, and other documentary evidence submitted by the Respondent, arrived at the following quantitative findings. During the pre-GST period, i.e., April 2014 to June 2017, the Respondent availed a total credit of

Service Tax and VAT amounting to Rs. 3,60,00,000/- against a purchase value of goods and services of Rs. 26,26,98,731/-, resulting in a credit-to-purchase ratio of 13.70%. During the post-GST period, the DGAP restricted the calculation of the profiteered amount to the period from July 2017 up to the date of receipt of the Occupancy Certificate, i.e., 22.11.2019. During this period, the Respondent availed net ITC of GST of Rs. 7,30,28,552/- against a purchase value of Rs. 50,92,03,663/-, resulting in a credit-to-purchase ratio of 14.34%. The increase in the credit-to-purchase ratio in the post-GST period was thus 0.64%. This increase led to total savings on account of additional ITC benefit of Rs. 32,47,736/-, which, when divided by the total saleable area of 6,16,128 sq. ft., yielded a saving of Rs. 5.27 per sq. ft. Applying this per sq. ft. saving to the total sold area covered under investigation, which is 5,36,762 sq. ft., resulted in a base profiteered amount of Rs. 28,29,381/-. Adding GST @ 12% amounting to Rs. 3,39,526/- thereto, the total profiteered amount was computed as Rs. 31,68,907/-. The DGAP further noted that out of 412 homebuyers, the Respondent had already passed on the ITC benefit to several buyers, but a remaining benefit of Rs. 11,13,155/- inclusive of GST component was still required to be passed on to 149 homebuyers. The DGAP report concluded that the Respondent had contravened Section 171 of the CGST Act, 2017, to this extent for the period up to 22.11.2019.

9. The matter was heard by the Tribunal on 28.04.2026, 22.05.2026 & 02.07.2026. During the hearing on 28.04.2026, an email was placed before the tribunal received from Shri Dheeraj Jaiswal, wherein he claimed that he was also one of

the original complainants in the matter. However, his name is missing from the Investigation Report submitted by the DGAP dated 08.12.2025. The representative of the DGAP assured the tribunal that they will file a clarification with respect to the claim of Shri Dheeraj Jaiswal. No other substantive objections were raised during the course of the hearings.

- 10.** Subsequently, the DGAP, vide its letter dated 29.05.2026, confirmed that the name of Shri Dheeraj Jaiswal appears at Sr. No. 61 in the list of 149 homebuyers as detailed in Para 27 of the investigation report dated 08.12.2025. The DGAP further submitted that Shri Dheeraj Jaiswal was a Co-Applicant in the original report dated 27.11.2020 and accordingly requested that he may be permitted to be made a Co-Applicant in the present case. In view of the said communication, the Tribunal hereby permits the impleadment of Shri Dheeraj Jaiswal as a Co-Applicant in the present proceedings.
- 11.** Moreover, the Respondent filed its written submissions on 10.05.2026 via e-mail, wherein it unconditionally accepted the findings and conclusions contained in the DGAP report dated 08.12.2025. The Respondent did not raise any objection regarding the quantum of the profiteered amount, the methodology adopted by the DGAP and the liability to pay interest, etc. The sole prayer of the Respondent was for a reasonable time period to pass on the remaining ITC benefit of Rs. 11,13,155/- to the 149 homebuyers.
- 12.** I have carefully examined the DGAP report dated 08.12.2025, the written submissions of the Respondent dated 10.05.2026, and the records of the matter.

- 13.** The Respondent has voluntarily and unconditionally accepted the DGAP report dated 08.12.2025, including the methodology prescribed by the Hon'ble Delhi High Court in *Reckitt Benckiser (supra)* at paragraph 129, and the computed profiteered amount of Rs. 11,13,155/- inclusive of GST component to be passed on to 149 homebuyers. The Respondent has neither challenged the findings on merits nor raised any procedural objections. In the absence of any contest, the Tribunal finds no reason to deviate from the DGAP's reasoned investigation. Accordingly, the DGAP report dated 08.12.2025 is hereby accepted in its entirety, and the Respondent is held to have contravened the provisions of Section 171 of the CGST Act, 2017, for the period from 01.07.2017 up to the date of receipt of Occupancy Certificate, i.e., 22.11.2019, to the extent of the said amount.
- 14.** Further, Rule 133(3)(b) of the CGST Rules, 2017 mandates the levy of interest at the rate of 18% per annum on the profiteered amount from the date of collection of the higher amount from the recipient until the date of its actual return. The Hon'ble Delhi High Court in *Reckitt Benckiser (supra)* at paragraph 153 has upheld the validity of this provision, observing as under:

“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 place."

Consequently, the Respondent is liable to pay interest at 18% per annum on the profiteered amount of Rs. 11,13,155/-. The interest shall be computed from the respective dates on which the Respondent collected the excess consideration from each of the 149 homebuyers, as reflected in the Respondent's books of account, until the date of actual refund.

- 15.** Regarding penalty, Section 171(3A) of the CGST Act, 2017, which came into force with effect from 01.01.2020, stipulates 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."

Upon careful examination, the Tribunal notes that the period of contravention in the present case is from 01.07.2017 up to 22.11.2019, being the date on which the Respondent received

the Occupancy Certificate for the project “White Orchid.” The penalty provision under Section 171(3A) of the CGST Act, 2017, came into force only on 01.01.2020, i.e., after the entire period of contravention had already concluded. Since the alleged contravention stands fully completed on 22.11.2019, much prior to the enforcement of Section 171(3A), the said penalty provision has no application to the facts of the present case. Accordingly, the Respondent is not liable to pay any penalty under Section 171(3A) of the CGST Act, 2017.

ORDER

- 16.** In view of the foregoing discussions and the unconditional acceptance by the Respondent, the investigation report of the DGAP dated 08.12.2025 is hereby accepted.
- 17.** The Respondent, M/s Townpark Buildcon Pvt. Ltd., is found to have contravened the provisions of Section 171 of the CGST Act, 2017, for the period from 01.07.2017 up to the date of receipt of Occupancy Certificate, i.e., 22.11.2019. The Respondent is directed to refund the total remaining profiteered amount of Rs. 11,13,155/- (Rupees Eleven Lakh Thirteen Thousand One Hundred Fifty-Five Only), which is inclusive of GST @ 12%, to the 149 eligible homebuyers.
- 18.** The said amount shall be refunded along with interest at the rate of 18% per annum, in terms of Rule 133(3)(b) of the CGST Rules, 2017. The interest shall be computed from the respective dates of collection of the higher amount from each eligible homebuyer until the date of actual refund.
- 19.** In view of the fact that the entire period of contravention, i.e., from 01.07.2017 to 22.11.2019, was completed prior to the coming into force of Section 171(3A) of the CGST Act, 2017,

which was inserted by the Finance (No. 2) Act, 2019 and took effect from 01.01.2020, the Respondent is not liable to pay any penalty under the said provision.

- 20.** The Respondent shall file a compliance report evidencing the refund of the profiteered amount, along with the aforesaid interest, to each of the 149 eligible homebuyers. Such a compliance report shall be submitted to the jurisdictional CGST/SGST Commissioner, Uttar Pradesh and a copy endorsed to the DGAP within a period of two months from the date of this Order.
- 21.** A copy of this Order be forwarded to the Respondent, the Applicants, the DGAP and the jurisdictional CGST/SGST Commissioner(s) for necessary action and compliance.
- 22.** The matter is disposed of accordingly.
- 23.** Order pronounced in the open court.

(Anil Kumar Gupta)

Technical Member

Principal Bench, GSTAT, New Delhi