GSTAT

Single Bench Court No. Court IV

NAPA/122/PB/2025

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

Versus

AMAL REALTORS PVT. 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. : ZA070010826000044H **Date of order :** 11/08/2026

1.	GSTIN/Temporary ID/UIN - 27AAACA4605Q1ZI	
2.	Appeal Case Reference no. - NAPA/122/PB/2025	Date - 30/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Amal Realtors Pvt. Ltd. , udeshico@gmail.com , 9870129460	
5.	Order appealed against -	
	(5.1) Order Type -	

	(5.2) Ref Number -	Date -
6.	Personal Hearing - 11/08/2026 23/07/2026 13/07/2026 03/07/2026 22/05/2026 14/05/2026 17/04/2026 19/03/2026 13/03/2026 16/01/2026 18/12/2025 03/12/2025 30/10/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - The Respondent had availed VAT credit of Rs. 4,51,873/- as transitional SGST credit and passed on the corresponding benefit to the eligible purchasers in accordance with Maharashtra Trade Circular No. 18T of 2017. However, in the case of the Applicant, the agreement was executed and registered after the implementation of GST. Accordingly, VAT was collected only on the pre-GST advance of Rs. 52,416/-, which was duly deposited with the VAT Department. Therefore, no VAT credit had accrued to the Respondent in respect of the Applicant's transaction and, consequently, no corresponding benefit was available for passing on to the Applicant.	
Summary of Order		
9.	Type of Order : - Closure Report	

Place: -DELHI PB

Date: - 11.08.2026

ORDER

1. The present proceedings arise from a complaint filed by Shri Avadhoot Janaradan Sansare, A-604, Madhu Vasant CHS Ltd., CTS, 738A, Subhash Road, Near Saibaba Temple, Vile Parle (East), Mumbai-400057 (hereinafter referred to as "complaint") 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. Amal Realtors Pvt. Ltd. A-501, Gladdiola, Old Hanuman (hereinafter referred to as "the Respondent") in respect of purchase of Flat No. MV 06041 in the Respondent Project "Madhu Vasant CHS Ltd. on

introduction of GST w.e.f. 01.07.2017, in terms of Section 171 of the Central Goods and Services Tax Act, 2017.

2. The complainant alleged that the Respondent had failed to pass on the benefit of Input Tax Credit (hereinafter referred to as "ITC") by way of commensurate reduction in price, upon the introduction of GST w.e.f. 01.07.2017, in contravention of Section 171 of the CGST Act, 2017.
3. The complaint was examined by the Standing Committee on Anti- Profiteering, which, upon being satisfied, forwarded the matter to the Directorate General of Anti-Profiteering (hereinafter referred to as "the DGAP") on 08.05.2024 the minutes of which were received in DGAP office on 27.09.2024
4. It is noted that the Directorate General Anti-profiteering (DGAP) investigated the project " Madhu Vasant CHS Ltd." executed by M/s. Amal Realtors and submitted its report dated 29.01.2025 under Rule 129(6) of the CGST Rules, 2017.
5. Upon completion of the investigation, the DGAP submitted its Report dated 29.01.2025 to the Principal Bench, GSTAT, which has been summarised as below:
    5.1. The DGAP investigated for the period 01.04.2015 to 31.03.2019 as the Respondent had availed the Scheme of payment of 5% GST without ITC w.e.f. 01.04.2019.
    5.2. The DGAP observed that prior to the implementation of GST, the Respondent was eligible to avail CENVAT credit of Service Tax on input services, whereas credit of Central Excise duty on inputs and credit of VAT were not available. Upon introduction of GST, the Respondent became entitled to avail ITC of GST on inputs and input services used in execution of the project. Accordingly, the ratio of credit availed to the purchase value during the pre-GST and post-GST periods was examined to ascertain whether any additional ITC had accrued to the Respondent.
    5.3. The DGAP further observed that the project comprised 36 residential units having a total saleable area of 26,714 sq. ft. Out of these, 21 flats

were allotted free of cost to the existing society members, and no monetary consideration was received in respect thereof. Further, 10 flats were booked after the Respondent had opted for the aforesaid scheme. Accordingly, these 31 flats were considered to be outside the scope of profiteering computation. Consequently, the investigation was confined to the remaining 5 residential units for the purpose of determining whether any profiteering had occurred.

5.4. Further, the Respondent submitted that it had availed Input Tax Credit (ITC) amounting to **Rs. 1,23,45,880/-** during the period from **July, 2017 to F.Y. 2018-19**. It was further submitted that an amount of **Rs. 68,92,459/-** had been reversed through a debit entry in the GSTR-3B returns as well as in the Electronic Credit Ledger for F.Y. 2018-19. Upon verification, the said reversal was found to be duly reflected in the relevant records. Accordingly, the reversal of ITC amounting to **Rs. 68,92,459/-** was accepted.

5.5. The DGAP examined the CENVAT credit availed during the pre-GST period, the ITC availed under GST during the post-GST period, and the corresponding purchase value of goods and services. Based on the information furnished by the Respondent, the ratio of credit availed to purchase value was worked out as under:

<u>Table - A</u>

S. NO.	**PARTICULARS**	**PRE- GST PERIOD (In-Rs.)**	**POST- GST PERIOD (In-Rs.)**
1 .	Purchase value of goods and services (Including taxes and duties)	58,82,754/-	6,92,35,705/-
2 .	Credit of Central Excise Duty and Service Tax availed		

3 .	Credit of VAT availed		
4 .	Total Credit availed in Pre- GST Period	4,86,064/-	
5 .	Net ITC of GST availed		54,53,421
6 .	Ratio of Credit availed to Purchase value	**8.26%**	**7.87%**
	Difference		**(-0.39)**

5.6. From the above computation, the DGAP observed that the ratio of credit availed to purchase value had decreased from 8.26 % during the pre-GST period to 7.87% during the post-GST period, resulting in No ITC benefit to the Respondent.

5.7. In view of the above findings, the DGAP concluded that the Respondent had not accrued the ITC on account of the implementation of GST and hence the provisions of Section 171(1) of the Central Goods and Services Tax Act, 2017 had not been contravened by the Respondent in the present case.

6. With effect from 01.10.2024, the Central Government, on the recommendations of the GST Council, empowered the Principal Bench of the GST Appellate Tribunal (GSTAT), constituted under sub-section (3) of Section 109 of the CGST Act, 2017, to adjudicate anti-profiteering cases in terms of Notification No. 18/2024–Central Tax dated 30.09.2024.

7. The above Report was received in the Principal Bench, GSTAT, on 29.01.2025 for adjudication under Section 171 of the CGST Act, 2017. A Notice dated 03.11.2025 was issued to the Complainant directing it to file written submissions on the DGAP Report.

8. The Complainant vide mail dated 03.04.2026, had filed its written submissions that are summarized as under:-

8.1. That the report relies substantially on CA-certified figures furnished by the developer, despite apparent discrepancies between annexures and GST returns regarding ITC availed and reversed. Therefore, independent project-wise reconciliation and verification are essential before accepting the conclusion.

8.2. The report concludes that no additional benefit of input tax credit accrued to the Noticee; however, Annexure III records that the Developer itself has shown a benefit of ₹4,51,873 passed on to certain customers by way of price reduction. This creates an apparent contradiction requiring proper examination. If no benefit accrued, the basis for such price reduction requires clarification. Conversely, if benefit was available and passed on to certain buyers, it indicates that some benefit was recognised by the Developer. Such benefit cannot be selectively extended to certain customers alone. Under Section 171, any eligible benefit is required to be determined on a principled and commensurate basis and passed on equitably to all similarly situated buyers.

8.3. As per the letter dated 12.11.2024 and MahaRERA records, the Developer is undertaking two projects, namely Juhu Sheetal and Madhu Vasant. However, GST returns and related records appear to contain combined figures for outward supplies, ITC availed, reversals and purchases. Therefore, project-wise conclusions may be distorted unless independently verified. A clear, auditable reconciliation of project-wise supplies, ITC, reversals, purchases and customer allocation is essential before relying upon the report.

8.4. In view of the above, I respectfully pray that my objections may kindly be taken on record, considering that I am an individual customer; the report dated 29.01.2025 may not be treated as final without further scrutiny; the Developer may be directed to furnish complete project-wise reconciliation of outward supplies, ITC availed and reversed, purchase values and customer-wise benefit, if any; the annexures and CA-certified figures may be subjected to independent arithmetical and documentary verification; the authority may specifically examine whether any benefit has been selectively passed on to certain customers and the basis thereof; an independent competent authority may be directed to verify the matter from the customer's perspective and place a transparent report on record; and such other order may kindly be passed as may be deemed fit in the facts and circumstances of the case.

9. In the view of the submissions filed by the Applicant, the Respondent and the DGAP were directed to file their submissions within two weeks. The DGAP in its clarifications, stated that :-

9.1 The Respondent has executed multiple projects, and the returns and the legal documents such as balance sheet etc. depict the number of all the work undertaken by the Respondent. It is not possible to bifurcate the same for a single project. Thus, the investigation is based upon the duly CA-certified data submitted by the Respondent. The Figures are pointed out by the applicant in Annexure -1, II and IV are CA certified and the figures are exclusive for the project "Madhu Vasant CHS Ltd.

9.2 The DGAP did not accept the objection raised by the Applicant that an amount of ₹4,71,873/- had been passed on by the Respondent, on the ground that the said amount was based on the Respondent's own calculation. However, it is pertinent to note that the DGAP had adopted the methodology prescribed for the Real Estate Sector pursuant to the judgment dated 29.01.2024 passed by the Hon'ble Delhi High Court.

9.3 The DGAP did not accept the objection raised by the Applicant on the ground that the Respondent had undertaken multiple projects and the GST returns and other statutory documents, including the balance sheets, reflected consolidated figures pertaining to all the projects undertaken by the Respondent. Accordingly, project-wise bifurcation of such figures was not feasible. The investigation was, therefore, conducted on the basis of the data duly certified by the Chartered Accountant and submitted by the Respondent.

10. . Further, the Respondent submitted replies dated 13.05.2026 and 02.06.2026, along with a consolidated reply dated 10.06.2026, wherein it addressed the queries and objections raised by the Applicant and furnished its submissions along with the relevant supporting documents.

    10.1 The Respondent submitted that VAT credit of Rs. 4,51,873/- was availed as transitional SGST credit and passed on to eligible purchasers as per Maharashtra Trade Circular No. 18T of 2017. However, in the Applicant's case, the agreement was executed and registered after implementation of GST. Hence, VAT was collected only on the pre-GST advance of Rs. 52,416/-, which was duly paid to the VAT Department. Accordingly, no VAT credit accrued to the Applicant and no benefit was available for passing on.

    10.2 The Respondent submitted that no additional ITC benefit accrued in the post-GST period, as the ITC-to-purchases ratio declined from 8.26% in the pre-GST period to 7.87% post-GST, as per the DGAP report dated 29.01.2025. Therefore, the essential condition for invocation of Section 171 of the CGST Act was absent and no profiteering liability could arise. The Respondent relied upon judicial pronouncements/orders in Prateek Infra Projects Pvt. Ltd., Shrivision Towers Pvt. Ltd. (Shriram Greenfield), Mantri Castles (P) Ltd. and Pacific Developers (P.) Ltd., and prayed that the proceedings be dropped.

11. Hearing in this matter was held on 30.11.2025, 03.12.2025, 18.12.2025, 16.01.2026, 19.03.2026, 17.04.2026, 14.05.2026, 22.05.2026, 03.07.2026 and 23.07.2026 in hybrid mode. On the final hearing dated 23.07.2026, Sh Rahul Rao Gautam, AAD, appeared on behalf of the DGAP. Shri Avadhoot Janardhan Sansare, Complainant and Shri Shailash Udeshi, Chartered Accountant appeared virtually for the Respondent.

Conclusion

12. We have carefully considered the DGAP Reports, the written submissions and additional written submissions filed by the Applicant, the clarifications furnished by the DGAP and the Respondent pursuant to the directions of this Tribunal, and the material available on record.
13. It is observed that the project "Madhu Vasant CHS Ltd.", in respect of which the Applicant has filed the application, comprises 36 residential units having a total saleable area of 26,714 sq. ft. Out of these, 21 flats were allotted free of cost to the existing society members, for which no monetary consideration was received. Of the remaining 15 flats, 10 flats were booked under the 5% GST scheme without ITC, pursuant to Notification No. 03/2019-Central Tax (Rate) dated 29.03.2019. Accordingly, only 5 flats fall within the scope of the present investigation.
14. Section 171 of the CGST Act provides as under: -

> "Any reduction in rate of tax on any supply of goods or services or the benefit of ITC shall be passed on to the recipient by way of commensurate reduction in prices."

15. It is clear from the plain reading of Section 171 (1) mentioned above that it deals with two situations, one relating to the passing on the benefit of reduction in the rate of tax and the second pertaining to the passing on the benefit of the ITC. Hence, the issue to be examined is as to whether there was any additional benefit of ITC with the introduction of GST.
16. Upon examination of the DGAP Report, it is observed that the ratio of ITC availed to the purchase value decreased from 8.26% during the pre-GST period to 7.87% during the post-GST period. Thus, no additional benefit of ITC accrued to the Respondent upon implementation of GST. Further, the principal contentions raised by the Applicant against the findings of the DGAP Report are as follows:
    (a) That the report relies substantially on CA-certified figures furnished by the developer, despite apparent discrepancies between annexures and GST returns regarding ITC availed and reversed.

(b) that the Developer itself has shown a benefit of ₹4,51,873 passed on to certain customers by way of price reduction.

17. In this regard, I observe that the Respondent has undertaken multiple projects, and its returns and financial statements contain consolidated figures for all such projects. As per the DGAP report and clarification, the, project-wise bifurcation was not feasible. Accordingly, the investigation has been based on the duly CA-certified data submitted by the Respondent, including figures pertaining exclusively to the project “Madhu Vasant CHS Ltd.”
18. Further, as per the records available, the Respondent had availed VAT credit of Rs. 4,51,873/- as transitional SGST credit and passed on the corresponding benefit to the eligible purchasers in accordance with Maharashtra Trade Circular No. 18T of 2017. However, in the case of the Applicant, the agreement was executed and registered after the implementation of GST. Accordingly, VAT was collected only on the pre-GST advance of Rs. 52,416/-, which was duly deposited with the VAT Department. Therefore, no VAT credit had accrued to the Respondent in respect of the Applicant’s transaction and, consequently, no corresponding benefit was available for passing on to the Applicant.
19. Accordingly, the Report dated 29.01.2025 submitted by the DGAP is accepted.
20. 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 information, necessary action and record.
21. The present proceedings are disposed of in the above terms.
22. Order pronounced in the open Court.

Digitally signed by ARABANDI VENU PRASAD
Date:11-08-2026 17:53:22 PM

(Sh. A. Venu Prasad)

Dated: 11.08.2026