GSTAT

Court No. Court III

NAPA/87/PB/2025

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

Versus

VERTEX HOMES 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. : ZA070010926000011H **Date of order:** 02/09/2026

1.	GSTIN/Temporary ID/UIN - 36AABCV2364G1ZE	
2.	Appeal Case Reference no. - NAPA/87/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Vertex Homes Pvt. Ltd. , accounts@vertexhomes.com , 9966459762	
5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -

6.	Personal Hearing - 02/09/2026 20/08/2026 21/07/2026 12/05/2026 24/03/2026 06/01/2026 29/10/2025 23/09/2025 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 - DGAP report dated 27.08.2025 read with the clarification dated 30.07.2026 submitted by the DGAP is hereby accepted. The Respondent, M/s Vertex Homes Pvt. Ltd., is not found to have contravened the provisions of Section 171 of the CGST Act, 2017.
Summary of Order	
9.	Type of Order: Closure Report

Place: DELHI PB

Date: 02.09.2026

ORDER

1. The present proceedings arise from an application filed by Sh. Abhilash Mohanty (hereinafter referred to as "**the Applicant**"), a resident of F-501, Vertex Panache, Kokapet, Hyderabad, before the Standing Committee on Anti-Profiteering under Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "**the CGST Act**").

2. The Applicant alleged that M/s Vertex Homes Pvt. Ltd. (hereinafter referred to as "**the Respondent**") had not passed on the benefit of Input Tax Credit (ITC) to him by way of a commensurate reduction in the price of his unit in the Respondent's project "**Vertex Panache**", on the introduction of GST w.e.f. 01.07.2017, thereby contravening the provisions of Section 171 of the CGST Act.

3. The Standing Committee on Anti-Profiteering, upon being prima facie satisfied that there was a contravention, forwarded the matter to the

Director General of Anti-Profiteering (hereinafter referred to as "**the DGAP**") for investigation.

4. The DGAP conducted a detailed investigation and submitted its Report dated 27.08.2025 under Rule 129 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "**the CGST Rules**"). The said report concluded that the Respondent had profiteered an amount of Rs. 73,00,010/- (Rupees Seventy-Three Lakhs and Ten Only), comprising a base profiteered amount of Rs. 65,17,866/- and GST @12% amounting to Rs. 7,82,144/-, which was required to be passed on to 140 eligible homebuyers.

5. The matter was subsequently listed before this Tribunal. Vide order dated 29.10.2025, the Tribunal issued notice to the Respondent with a copy of the investigation report dated 27.08.2025 and directed it to file its written submissions. Subsequently, the Respondent sought and was granted multiple extensions for filing its submissions, as recorded in the orders dated 06.01.2026, 24.03.2026, and 12.05.2026.

Submissions of the Respondent

6. The Respondent, M/s Vertex Homes Pvt. Ltd., filed its written submissions on 29.06.2026 and subsequently re-filed the same on 13.07.2026 in response to the Investigation Report dated 27.08.2025 and made the following submissions:

    6.1 The Respondent contended that the project "Vertex Panache" was executed over a period during which the construction sector witnessed significant inflationary pressure, particularly in the prices of major construction inputs. It was argued that such escalation in material costs had a substantial impact on the overall project economics and consequently on the actual financial benefit, if any, that could be derived from the implementation of the Goods and Services Tax.

6.2 The Respondent drew the attention of the Tribunal to the disparity between the budgeted and actual project costs. It was submitted that as per the project estimates prepared by its Engineering Department, the budgeted cost of construction for the project was Rs. 1,56,94,91,872/-. However, the aggregate expenditure actually incurred towards execution of the project amounted to Rs. 1,61,06,72,320/-. Consequently, the project experienced an overall increase in cost of Rs. 4,11,80,448/- (including Indirect Cost) above the budgeted construction cost.

6.3 To elucidate the reasons for this substantial cost overrun, the Respondent undertook a detailed review of major construction inputs. The analysis revealed significant escalation in procurement prices during the post-GST period as compared to the pre-GST period. The Respondent submitted that the increase in the prices of Ready-Mix Concrete (RMC) was 19.87%, Sand 62.98%, and Bricks 73.17%. These materials, it was argued, constitute a significant portion of the total construction cost. Based on actual quantities consumed and costs incurred, the increase in prices of these major inputs alone resulted in an additional project expenditure of approximately Rs. 3,49,87,499/-.

6.4 It was further argued that this analysis indicated that the increase in construction costs experienced during the execution of the project was significantly higher than the additional ITC benefit computed in the Investigation Report.

Therefore, the overall project economics reflect that the increase in input costs substantially offset the additional benefit arising on account of the availability of ITC under GST.

6.5 In support of their claim, the Respondent relied upon the findings of the Hon'ble Delhi High Court in the case of ***Reckitt Benckiser India Pvt. Ltd. v. Union of India, (2024) 14 Centax 374 (Delhi)***. Specifically, it placed reliance on paragraph 118 of the said judgment, which is reproduced below:

"118. This Court is of the view that the manufacturer/supplier despite reduction on rate of tax or benefit of Input Tax Credits can raise the prices based on commercial factors, as long as the same is not a pretense. During the hearing, Mr. Zoheb Hossain, learned counsel, conceded (as recorded earlier) that in some cases, commercial factors might necessitate an increase in price despite reduction in rate of tax or increase in availability of benefit of Input Tax Credits."

6.6 To further substantiate their claim of cost escalation, the Respondent placed on record a Chartered Accountant's Certificate dated 25.06.2026 from M/s Tukaram & Co. LLP. The certificate certified that the additional expenditure of Rs. 3,49,87,499/- attributable to the escalation in the prices of RMC, Sand, and Bricks had been computed in accordance with the methodology set out in Annexure-I to their submission, based on the books of account, cost records, purchase records, and other supporting documents maintained by the Company.

6.7 The Respondent further submitted that the Investigation Report itself recorded that 197 flats were excluded from the scope of investigation on account of the contractual understanding between the parties that the consideration agreed for the flats included the GST Input Tax Credit likely to accrue to the project. It was argued that this demonstrated that anticipated GST benefits had already been factored into the pricing mechanism and there was no intention on the part of the Respondent to retain any undue benefit.

6.8 Based on these submissions, the Respondent prayed that the project-specific cost escalation and its impact on the project's economics be duly considered. It was submitted that the additional cost burden borne by the Respondent during the course of project execution exceeded the additional ITC benefit computed in the Investigation Report, and consequently, no profiteering could be attributed to the Respondent.

Clarification by the DGAP

7. The DGAP, in its clarification dated 30.07.2026, acknowledged the receipt of the Respondent's submissions which were filed on 29.06.2026 and again on 13.07.2026, being the same set of submissions, and made the following submissions:

7.1 The DGAP submitted that it had carefully examined the Respondent's claim of cost escalation. The claim was supported by a Chartered Accountant's certificate and sample invoices. Upon verification, the DGAP accepted the Respondent's claim of an additional expenditure of Rs. 3,49,87,499/- attributable to the escalation in the prices of major construction materials.

7.2 The DGAP, while accepting the cost escalation claim, revised its computation of the profiteered amount. The amount of cost escalation was deducted from the total savings in Table B of its original investigation report dated 27.08.2025. The DGAP submitted a revised Table B, which is reproduced below:

S. No.	Particulars	Amount (Rs.)
1.	Ratio of Credit availed to Purchase Value as per Table - A above (%)	13.60 / 18.98
2.	Increase in input tax credit availed post-GST (%)	5.38
3.	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	45,91,09,633
4.	Total Savings on account of additional ITC benefit	2,47,02,175
5.	Cost Escalation	3,49,87,499
6.	**Net Savings on account of additional ITC benefit after subtraction of Cost Escalation**	**-1,02,85,324**
7.	**Profiteered Amount (in Rs.)**	**0**

7.3 Based on the revised computation, the DGAP concluded that after subtracting the cost escalation, the total savings of the Respondent was in a negative figure. The DGAP, therefore, submitted that 'Nil' profiteering had been calculated for the project "Vertex Panache".

8. Subsequently, the Respondent also filed a letter dated 19.08.2026 before this Tribunal in response to the DGAP clarification dated 30.07.2026, accepting the DGAP's findings and revised computation, and confirming that it had no objection to the same being taken on record in the ongoing proceedings.

9. The matter was taken up for hearing by this Tribunal on 10.07.2025, 12.08.2025, 19.08.2025, 23.09.2025, 29.10.2025, 06.01.2026, 24.03.2026, 12.05.2026, 21.07.2026 and 20.08.2026. The Authorized Representative appeared on behalf of the Respondent and advanced submissions in support of their written submissions. The DGAP's representatives also appeared and placed on record the revised computation.

10. It is pertinent to note that despite due notice and repeated opportunities, the Applicant did not enter appearance before this Tribunal at any stage of the present proceedings or file any submissions in response to the DGAP's Clarification dated 30.07.2026. The matter has, therefore, been considered on the basis of the material available on record, the Investigation Report dated 27.08.2025 submitted by the DGAP, the clarification dated 30.07.2026 filed by the DGAP, and the submissions made by the Respondent.

Discussion and Findings

11. Upon consideration of the revised computation submitted by the DGAP, which accepts the Respondent's claim of cost escalation and concludes that no profiteering has arisen, this Tribunal finds that no further issues remain for adjudication. The DGAP, being the primary investigating authority, has, after due verification of the Chartered Accountant's certificate and supporting documents, concluded that the net savings of the Respondent is in the negative figure, resulting in 'Nil' profiteering.

11.1 In the present case, the DGAP, in its original investigation report dated 27.08.2025, had adopted a methodology by comparing the ratio of ITC to the purchase value of inputs and services. However, in its subsequent clarification dated 30.07.2026, the DGAP revised its computation by deducting the amount of cost escalation from the total savings on account of additional ITC.

11.2 The revised calculation, as detailed by the DGAP, is as follows:

- The total savings on account of additional ITC benefit was originally computed as 5.38% of Rs. 45,91,09,633, which equals Rs. 2,47,02,175.
- After the Respondent's claim of cost escalation amounting to Rs. 3,49,87,499, the net savings to the Respondent would be a negative figure (Rs. 2,47,02,175 - Rs. 3,49,87,499 = - Rs. 1,02,85,324).

11.3 We have carefully examined the Respondent's submission regarding the significant cost escalation in construction inputs. The Respondent has provided a detailed breakdown of the budgeted cost versus the actual expenditure incurred and has attributed a substantial part of the cost overrun to the increase in prices of RMC, Sand, and Bricks.

11.4 The claim is supported by an independent Chartered Accountant's Certificate dated 25.06.2026 from M/s Tukaram & Co. LLP, which certifies that the additional expenditure of Rs. 3,49,87,499/- has been computed in accordance with the methodology set out in Annexure-I to their submission, based on the books of account, cost records, and purchase records maintained by the Company. The DGAP, in its clarification dated 30.07.2026, has accepted this certificate and the underlying claim after verifying the same with sample invoices provided by the Respondent.

11.5 The Respondent has invoked the principle that price increases based on genuine commercial factors, such as cost escalation, do not constitute profiteering. This principle finds resonance in the judgment of the Hon'ble Delhi High Court in the case of *Reckitt Benckiser India Pvt. Ltd. v. Union of India (supra)*. This Tribunal observes that paragraph 118 of the said judgment provides clear and authoritative guidance on this aspect. The relevant extract from paragraph 118 is reproduced as under:

"118. This Court is of the view that the manufacturer/supplier despite reduction on rate of tax or benefit of Input Tax Credits can raise the prices based on commercial factors, as long as the same is not a pretense. During the hearing, Mr. Zoheb Hossain, learned counsel, conceded (as recorded earlier) that in some cases, commercial factors might necessitate an increase in price despite reduction in rate of tax or increase in availability of benefit of Input Tax Credits."

11.6 Furthermore, the Hon'ble Delhi High Court, in the same judgment, clarified that while the anti-profiteering mechanism is valid, the orders passed thereunder could be set aside on merits if they fail to consider genuine variations in other factors such as cost escalations. The Hon'ble Delhi High Court, in paragraph 163 of the judgment, observed as under:

"163. Keeping in view the aforesaid conclusions, the constitutional validity of Section 171 of Act, 2017 as well as Rules 122, 124, 126, 127, 129, 133 and 134 of the Rules, 2017 is upheld. This Court clarifies that it is possible that there may be cases of arbitrary exercise of power under the anti-proliferating mechanism by enlarging the scope of the proceedings beyond the jurisdiction or on account of not considering the genuine basis of variations in other factors such as cost escalations on account of which the reduction stands offset, skewed input credit situations etc. However, the remedy for the same is to set aside such orders on merits. What will be struck down in such cases will not be the provision itself which invests such power on the concerned authority but the erroneous application of the power."

11.7 Upon the facts and circumstances of the present case, we are satisfied that the Respondent has established a genuine and substantial escalation in the cost of major construction materials, a fact which has been duly verified and accepted by the DGAP.

11.8 Furthermore, the revised methodology adopted by the DGAP, which deducts the proven cost escalation from the total savings, is legally sound and appropriate. This approach aligns with the observations of the Hon'ble Delhi High Court in *Reckitt Benckiser,* which allowed for the consideration of commercial factors such as cost escalations. The Tribunal, therefore, concludes that the increase in input costs has had a tangible impact on the project's economics, effectively offsetting the benefit that might have accrued from the benefit of additional ITC after the introduction of GST.

12. Based on the revised methodology and the acceptance of the Respondent's claim of cost escalation, the DGAP has concluded that the total savings of the Respondent is in the negative figure. In its clarification, the DGAP states:

> *"In view of the above, it is concluded that after subtraction of Cost Escalation, total savings of the Respondent is in negative figure. Therefore, Nil profiteering has been calculated for the above project 'Vertex Panache."*

13. Having examined the DGAP's findings, which are founded on verifiable data and calculations, we are of the considered view that the Respondent has not profiteered at all in respect of the project "Vertex Panache". The benefit of the additional ITC was entirely offset by the substantial increase in the cost of construction materials. This conclusion is further fortified by the letter dated 19.08.2026 filed by the Respondent, wherein it has unequivocally accepted the DGAP's findings and the consequential determination of Nil profiteering.

14. Hence, in view of the above discussion, the DGAP report dated 27.08.2025 read with the clarification dated 30.07.2026 submitted by the DGAP is hereby accepted. The Respondent, M/s Vertex Homes Pvt. Ltd., is not found to have contravened the provisions of Section 171 of the CGST Act, 2017.

15. The Registry is directed to supply a copy of this Order to the Applicant, Respondent, as well as to the jurisdictional CGST/SGST Commissioner concerned for information and necessary action.

16. The matter is disposed of accordingly.

17. This Order is pronounced in the open court on 02.09.2026.

Digitally signed by ANIL KUMAR GUPTA
Date:02-09-2026 13:11:51 PM

(Sh. Anil Kumar Gupta)
Technical Member, GSTAT (PB)

Date- 02.09.2026