GSTAT

Division Bench Court No. Court I

NAPA/141/PB/2025

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

Versus

BENGAL EMAMI HOUSING LTD. **.............Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President
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. : ZA070010926000020H **Date of order :** 02/09/2026

1.	GSTIN/Temporary ID/UIN - 19AADCB7278B1ZN	
2.	Appeal Case Reference no. - NAPA/141/PB/2025	Date - 17/12/2024
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Bengal Emami Housing Ltd. , behousing09@gmail.com , 9674650000	
5.	Order appealed against -	
	(5.1) Order Type -	

	(5.2) Ref Number -	Date -
6.	Personal Hearing - 02/09/2026 19/08/2026 12/08/2026 22/07/2026 01/07/2026 04/06/2026 12/05/2026 20/04/2026 16/03/2026 19/01/2026 15/10/2025	
7.	Status of Order under Appeal - Modified – Order under Appeal is modified	
8.	Order in brief - The Respondent is directed to pass on the profiteered amount of ₹70,58,488/- (inclusive of GST), to the eligible homebuyers, as identified in the DGAP Report dated 15.04.2026 in Annexure-1 for HIG category. The said amount shall be passed on 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 the higher amount from the buyers 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

Date : 02.09.2026

ORDER

1. The matter was taken up for the hearing on 19.08.26 for final hearing. Shri Harkesh Meena, Learned Assistant Commissioner assisted by Sh. Praveen Kumar , Learned AAD, appeared on behalf of the Director General of Anti-Profiteering (hereinafter referred to as "**the DGAP**"), and Shri Arvind Baheti Chartered Accountant, appeared for the Respondent and Shri Dibyayan Banerji, Learned Advocate, appeared on behalf of the Original Complainant.

2. The present proceedings arise out of an application filed by Shri Sudhamoy Saha, R/o Block-7, Flat-3E, Ramchandrapur (N), Kamalgachi, PO Narendrapur, Kolkata - 700103 **(hereinafter referred to as "the Applicant"),** under Rule 128 of the Central Goods and Services Tax Rules,

2017 (hereinafter referred to as "the Rules"), alleging profiteering by not passing the commensurate benefit of ITC in respect of construction by M/s **Bengal Emami Housing Ltd., 97A,**Southern Avenue (Annex Building), Kolkata-700029 **(hereinafter referred to as "the** Respondent"**)** for the project **"Swan Court".**The investigation was initiated pursuant to complaints filed by homebuyers and subsequent directions from the Competition Commission of India (CCI) to re-investigate the case in light of the judgment of the Hon'ble Delhi High Court in ***Reckitt Benckiser India Private Limited v. Union of India [2024 SCC OnLine Del 588].***

3. The DGAP, vide its report dated 15.12.2024, alleged that the Respondent had profiteered an amount of Rs. 13,35,51,188/- including GST, from the homebuyers. The DGAP arrived at this conclusion by calculating the ratio of total ITC availed to the purchase value of goods and services in the pre-GST to the post-GST period and treating the difference as additional ITC benefit.
4. The Respondent has challenged the DGAP report dated 13.12.2024 vide its written submission dated 14.03.2026 on several grounds. The Primary contention of the Respondent was that the project under consideration is a Joint Venture (JV) between M/s. Bengal Emami Housing Ltd and the West Bengal Housing Board, with the Board holding 50% of the share capital. The West Bengal Housing Board is a state Government undertaking. The Project comprises three categories of apartments, namely: ASHA (Lower Income Group-LIG), Abhilasha (Middle Income Group-MIG) and Akankhya (Higher Income Group-HIG). It was also submitted that, as per Notification No. 738-H1/1M-2/2007 (PT.) dated 17.08.2015 issued by the State of West Bengal (pricing notification), the price to be charged from LIG and MIG customers are fixed, leaving no room for any changes in price by the Respondent. In other words, the Respondent has no discretion in the mattes

of the pricing of LIG and MIG flats, and therefore, the DGAP's findings are erroneous. Further, the Respondent has also submitted that the methodology adopted by the DGAP is flawed and not in compliance with the principles laid down by the Hon'ble Delhi High Court in the *Reckitt Benckiser* case. The Respondent had submitted that the appropriate methodology is to consider that the price variation in the post-GST period is subject to market-driven forces and rise in costs. Further, the Respondent had also submitted that the DGAP had rejected his claim to pass on the benefit of ITC was arbitrary and contrary to evidence. In addition, the Respondent had also submitted that the expansion of investigation to all categories is arbitrary and profiteering cannot legally be alleged for LIG and MIG categories.

5. After filing the written submissions, the DGAP gave its clarification on 15.04.2026 wherein they, after taking into consideration the various submissions made by the Respondent, came into conclusion that the Respondent had profiteered an amount of Rs. 2,16,72,591/- which need to be passed on to the Homebuyers as per the attached Annexure -1 with the clarification. The DGAP had submitted that during investigation, the Respondent furnished cost-escalation workings only for HIG units, as its stand was that profiteering, if any, should be examined only with reference to HIG and not the entire project. Since the DGAP, in its Report dated 13.12.2024, determined profiteering for the entire project, no project-wide cost-escalation adjustment was considered. Subsequently, vide submissions dated 14.03.2026, the Respondent furnished project-wise cost-escalation workings along with a Chartered Accountant's Certificate issued by M/s S.K. Agrawal and Co. Chartered Accountant LLP, certifying the increase in actual costs of cement, steel, sand and stone chips up to the Occupancy Certificate dated 04.08.2022 and their proportion in the budgeted costs of HIG, MIG and LIG categories. The said workings were examined and accepted for

limited re-computation. Accordingly, Rs. 5,08,25,698/- towards cost escalation has been allowed in revised Table "B". Reliance is also placed on paragraphs 118 and 163 of the Hon'ble Delhi High Court's Order dated 29.01.2024 in Reckitt Benckiser India Pvt. Ltd. (supra), recognizing genuine commercial cost escalations. Attention is invited to Table "B" of the DGAP's Investigation Report dated 13.12.2024, which is reproduced hereinbelow for ready reference:

" Table B"

Sl. No.	**Particulars**		**Post-GST**
1	Period	A	01.07.2017 to 04.08.2022
2	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	7.18/17.28
3	Increase in input tax credit availed Post-GST (%)	C	10.10
4	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST	D	1,23,01,41,863
5	Total Savings on account of additional ITC benefit	E=D*C/100	12,42,44,328
6	Total Saleable Area (in Sq. Ft.)	F	5,42,285
7	Total Saving Per Sq. Ft.	G=E/F	229.11
8	Total Sold Area (in Sq. Ft.) till the date of Occupancy Certificate	H	5,20,458
9	**Profiteered Amount**	**I= G * H**	11,92,42,132

The DGAP has accepted the Respondent's submission regarding cost escalation, along with the CA Certificate dated 14.03.2026. Accordingly, the revised Table-B is reproduced below:

Table- B

(Amount in Rs)

SI. No.	Particulars		Post-GST
1	Period	A	01.07.2017 to 04.08.2022
2	Ratio of Credit availed to Purchase Value as per Table - A above (%)	B	7.18/17.28
3	Increase in input tax credit availed Post-GST (%)	C	10.1
4	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post-GST Period	D	1,23,01,41,863
5	Total Savings on account of additional ITC benefit	E=D*C/100	12,42,44,328
6	Cost Escalation	F	5,08,25,698
7	Total Savings on account of additional ITC benefit	G=E-F	7,34,18,630
8	Total Saleable Area (in Sq. Ft.)	H	5,42,285
9	Total Saving Per Sq. Ft.	I= G/H	135.39
10	Total Sold Area (in Sq. Ft.) till the date of Occupancy Certificate	J	5,20,458
11	Profiteered Amount	K=I*J	7,04,64,809
12	GST@12% on profiteered Amount	L=K*12%	84,55,777
13	**Total Profiteering Amount including GST@12%**	**M=K+L**	**7,89,20,586**

On issue of demonstrable passed on the ITC benefit it is submitted by the DGAP that the Respondent furnished additional buyer correspondences, customer-wise workings, credit notes, application forms, customer ledgers and a Chartered Accountant Certificate dated 14.03.2026 in support of its claim regarding passing on of ITC benefit. Upon combined examination of the documents already on record and the additional evidence submitted before the Hon'ble Tribunal, it is observed that the Respondent has provided sufficient evidentiary support to establish passing on of the ITC benefit through issuance of credit notes and reduction in prices. Accordingly, the earlier reliance on email verification alone is revised, and the duly verified documented passing-on amount is accepted and incorporated in revised Table-C.

Table- C

Amount in Rs

SI. No.	No. of Units	Saleable Area (Sq. ft.)	Profiteering Amount	Amount of ITC benefit passed on	Difference (Benefit to be passed on)	Remarks
A	**B**	**C**	**D**	**E**	**F=(D-E)**	**G**
1	101	1,74,235	2,64,20,438	5,69,82,460	-3,05,62,022	Excess benefit already passed on
2	275	3,06,602	4,64,92,146	3,08,27,557	1,56,64,589	Less benefit passed on
3	50	39,621	60,08,002	0	60,08,002	Benefit required to be passed on
4	9	13,957	0	42,33,600	-42,33,600	Post OC buyer
5	5	7870	0	0	0	Unsold
Total	**440**	**5,42,285**	**7,89,20,586**	**9,06,90,657**	**2,16,72,591**	

Thus, the DGAP, after taking into consideration the various submissions made by the Respondent, came to the conclusion that the Respondent has profiteered an amount of Rs. 2,16,72,591/-, which needs to be passed on to the 325 as per the Annexure-1 of the DGAP clarifications.

6. On the DGAP's clarification, the Complainant filed his rejoinders on 27.06.2026(that is taken on records) and prayed as under: -

(a) Reject the acceptance of Rs. 5,74,63,690/- of HIG pass-through (application-form and advertised reductions) that is untraceable to any individual buyer's ledger, demand note or receipt;

(b) Direct that net profiteering be computed buyer-by-buyer, with each buyer floored at zero and without any cross-buyer set-off, in terms of Section 171(2) of the CGST Act;

(c) Disallow the cost escalation of Rs. 5,08,25,698/-, allowed vide the DGAP reply dt. 15.04.2026, and restore the methodology of the DGAP Report dt. 13.12.2024;

(d) Direct the Respondent to reconcile the buyer-wise sheets to the full 440 units and to disclose the methodology for converting "actual due".

(e) Direct the Respondent to file true declarations from all home-buyers, in a common format, confirming receipt of any ITC passed on;

(f) Direct payment of interest at 18% per annum from 01.07.2017 to till on the residual profiteered amount; and

(g) Pass such further or other order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

7. In reply, the DGAP has filed its clarifications vide letter dated 30.07.2026. A copy of the same was provided to the Complainant and the Respondent. The DGAP rejected all the claims filed by the Complainant, stating that the Hon'ble Tribunal may be pleased to consider the DGAP's clarification dated 15.04.2026, read with the report/letter dated 09.06.2026 and the present para-wise comments, and pass such order as may be deemed fit and appropriate in the facts and circumstances of the case.

8. During the Hearing dated 09.06.2026 the Respondent has raised its primary contention that *"the prices of LIG and MIG flats were governed by the pricing Notification No. 738-H1/1M-2/2017 (Pt.) dated 17.08.2025 issued*

by the Housing Department, Governement of West Bengal and State that the Pricing notification prescribes a regulated maximum sale rate for LIG and MIG categories and that such prices shall include "Only direct cost and no overhead Cost" and pleaded that these flats should be kept outside the purview of the Anti-profiteering Investigation. Consequently, the company has been selling the flats at a loss at the sale price per Sq.Ft. fixed by the Government. The company has to bear the overhead and administrative cost themselves and can not recover the same from the buyers. Accordingly, the prices to be charged from LIG and MIG customers were fixed within the framework of the Government Notification, leaving no room for unilateral variation."

9. In response to the aforesaid contention, the DGAP, vide its reply dated 09.06.2026, has referred to the CBEC Press Release dated 15.06.2017. The said Press Release clarified the rationale underlying the introduction of GST in the construction sector, particularly with regard to the incidence of taxes embedded in the cost of construction materials.

10. It was clarified therein that, under the GST regime, construction of flats would generally entail a lower tax incidence, as the taxes embedded in the cost of construction materials under the erstwhile regime were substantially sought to be neutralised through the availability of input tax credit (ITC). Under the pre-GST regime, the construction sector was subjected to multiple indirect taxes, including Central Excise Duty, VAT and Entry Tax, with limited availability of credit, resulting in cascading of such taxes and their ultimate embedding in the cost of construction. The CBEC Press Release further highlighted that, with the introduction of GST and the consequent availability of ITC, the embedded tax burden was expected to be reduced or eliminated. The corresponding benefit arising from such reduction in tax

incidence was, therefore, required to be passed on to the recipients in accordance with the anti-profiteering provisions.

11. The Tribunal has perused the Report of the DGAP dated 13.12.2024; the submissions filed by the Respondent dated 14.03.2026, 20.04.2026 and 29.06.2026; the submissions of the Applicant dated 27.06.2026; the clarifications furnished by the DGAP dated 15.04.2026, 09.06.2026 and 30.07.2026; and the other documents placed on record during the course of hearing. Upon consideration of the aforesaid material, the following main issues arise for determination:-

    A. Whether the Respondent has contravened the provisions of Section 171 of the CGST Act, 2017?

    B. Whether the Respondent has passed on the benefit of additional ITC to the homebuyers of the project "Swan Court" in accordance with Section 171 of the CGST Act, 2017?

    C. Whether the Respondent is liable to pay interest on the amount determined to have been profiteered and, if so, to what extent?

    D. Whether the facts and circumstances of the present case warrant the imposition of penalty under the provisions of the CGST Act, 2017

Determination of Profiteering and Passing of ITC Benefit

12. On these issues, this Tribunal finds that upon the introduction of GST, the Respondent became entitled to avail Input Tax Credit on both goods and input services, unlike the pre-GST regime where credit was restricted. The comparison of ITC in the pre-GST and post-GST periods shows that an additional benefit accrued to the Respondent. In terms of Section 171 of the CGST Act, 2017, such benefit is required to be passed on to the homebuyers by way of commensurate reduction in prices. Pursuant to the directions of this tribunal, the DGAP re-examined the matter and submitted its

clarification on 15.04.2026. It adopted the methodology of comparison of ITC to construction cost in the pre-GST and post-GST periods stating that such methodology is in line with the judgment of the Hon'ble Delhi High Court in Reckitt Benckiser India Pvt. Ltd. v. Union of India, WP (C) 7743/2019. However, the Respondent had objected that extending the investigation to LIG and MIG categories is arbitrary, as LIG, MIG and HIG are distinct real-estate products, physically separated and governed by separate infrastructure, brochures, application forms, launch dates and pricing regimes. The complaint was filed only by an HIG buyer. Prices of LIG and MIG units were regulated under the West Bengal Housing Department's Pricing Notification dated 17.08.2015, leaving no discretion to the Company to unilaterally reduce prices. Further, the requirement of charging "direct cost only" meant that pre-GST taxes were not embedded in or recovered through their sale prices. Hence, no embedded tax component existed in LIG/MIG prices for passing on GST benefits. The Company also submits that these units were sold at prices substantially below market value and that any ITC benefit accrued as cost relief to the Company. Accordingly, the investigation should not cover all 440 units; if restricted to HIG, profiteering would be ₹70,58,488.

13. In its reply, the DGAP does not dispute the binding nature and applicability of Notification No. 738-H1/1M-2/2007(pt.) issued by the Housing Department, Government of West Bengal, which governs the pricing of LIG and MIG units in the present project. However, the DGAP has relied upon the ruling of the GSTAT in the case of *AMB Cinemas LLP, Hyderabad* (NAPA/4/PB/2025), dated 16.04.2026, wherein the maximum retail prices of cinema tickets had been fixed by the State Government under the provisions of the Telangana Cinema (Regulation) Act, 1955.

14. In view of the foregoing discussion, we find merit in the Respondent's contention that the prices of the LIG and MIG units were statutorily capped and restricted to the recovery of direct costs, whereas the associated overheads, administrative expenses and tax components were to be borne by the Respondent. The pricing mechanism applicable to the LIG and MIG units was, therefore, materially different from that applicable to the HIG units.

15. We are also unable to accept the DGAP's reliance upon the decision of the GSTAT in M/s. AMB Cinemas LLP, Hyderabad (NAPA/4/PB/2025), dated 16.04.2026, as the facts and the statutory framework governing the said case are materially distinguishable from those obtaining in the present matter. In the case of the LLP (Supra) the Tribunal noted the process of fixing the prices of cinema ticket by committee headed by the Chief Secretary of the State. In fact, similar question was also examined in the earlier final Order by Single Bench of this Tribunal and was made clear that to monitor the prices of cinema tickets various steps were taken, and the Committee was monitoring the prices. The Committee was holding sitting on regular intervals. In case of pricing of LIG and MIG units issued by the Housing Department, Government of West Bengal, a one-time notification was issued. The West Bengal Government issued a notification regarding the fixation of prices of flats of the LIG and MIG categories in a single notification and there is no material on record or even any argument from the side of the DGAP that subsequently such price fixation has been revised keeping in view the play of market forces.

16. The said Notification prescribes the maximum sale rate per square foot for the LIG and MIG categories and specifically stipulates that only direct costs, and no overhead/administrative costs, are to be charged. Thus, unlike in the case of HIG units, the Respondent had no commercial discretion to load

overheads, administrative expenses or other indirect costs, including the taxes attributable thereto, into the sale price of LIG and MIG units. In these circumstances, the statutory restriction governing the pricing of LIG and MIG units assumes material significance. The ratio of the decision in AMB Cinemas cannot, therefore, be mechanically applied to the facts of the present case. Consequently, no profiteering can be attributed to the Respondent in respect of the LIG and MIG units, and any computation of profiteering, if warranted, is required to be confined to the HIG units alone.

17. As regards the contention of the Complainant raised during the hearing and vide its submission dated 27.06.2026 regarding 14 units allegedly not being accounted for in the DGAP's Report, we find that the said contention does not disclose any discrepancy or unexplained omission in the Report. The DGAP has clarified that its Report dated 13.12.2024 covers all the 440 units forming part of the project. Out of the 14 units in question, 9 units were sold after the date of issuance of the Occupancy Certificate, i.e. 04.08.2022, while the remaining 5 units continued to remain unsold as on the relevant date.

18. Further, it is pertinent to refer to paragraph 5 of Schedule III to the Central Goods and Services Tax Act, 2017, which specifies certain activities or transactions that are to be treated neither as a supply of goods nor as a supply of services. The said provision specifically covers the sale of land and, subject to the prescribed conditions, the sale of a building. Accordingly, the taxability of the transactions relating to the aforesaid 9 units, which were sold after the issuance of the Occupancy Certificate, has to be examined in the light of the statutory scheme under Schedule III. Further, the 5 units which remained unsold could not, merely on account of their being part of the total sanctioned/project units, be treated as taxable supplies for the purpose of computation of profiteering. We, therefore, find that the exclusion

of these 14 units from the computation made by the DGAP is neither arbitrary nor unexplained, but is based on the factual status of the respective units and the applicable statutory provisions. Accordingly, the contention of the Complainant that 14 units were omitted from the DGAP's Report is not sustainable and does not warrant any modification in the computation on this account. Further, some of the allottees of the Swan Court Project, HIG, have submitted that they have not received any benefit of Input Tax Credit (ITC) from the Respondent. It is an undisputed fact that the said allottees had booked their respective flats after the introduction of GST. In this regard, the DGAP, in its report, has submitted that an amount of ₹5,74,63,690/- was passed on to the HIG allottees by way of reduction in the sale price. The said benefit was passed on through reduction in the sale price mentioned in the application forms at the time of booking in respect of the units sold during the period from July 2017 to June 2018, through reduction in the rates advertised in leading newspapers in July 2018, and through reduction in the sale price mentioned in the application forms for the units sold thereafter up to the date of issuance of the Occupancy Certificate (OC).

19. On quantification, it is observed that the original DGAP Report dated 13.12.2024 determined the profiteered amount at ₹13,35,51,188/-, out of which ₹77,63,930/- was found to have already been passed on, leaving a balance amount of ₹12,60,55,300/-. However, upon reconsideration and verification of additional documents furnished by the Respondent, the DGAP revised the profiteered amount to ₹7,89,20,586/-, with a balance amount of ₹2,16,72,591/- remaining to be passed on to the eligible recipients. It has also been correctly clarified that excess benefit passed on to certain buyers cannot be adjusted against the shortfall pertaining to other buyers, since each recipient is independently entitled to commensurate benefit under Section 171 of the CGST Act, 2017. In view of the foregoing discussion, we

find merit in the Respondent's contention that the prices of LIG and MIG units were statutorily capped and limited to recovery of direct costs, while the associated overheads and tax components were borne by the Respondent. The circumstances governing the pricing of these categories are materially distinct from those applicable to HIG units. Therefore, no profiteering can be attributed to the Respondent in respect of LIG and MIG units, and any computation of profiteering, if warranted, ought to be restricted to HIG units alone.

20. In view of the foregoing discussion, this Tribunal holds that the Respondent had derived additional ITC benefit amounting to ₹70,58,488/- for the HIG Category only and is liable to be passed on to the eligible recipients.

Interest

21. The next issue for determination is whether interest is payable on the profiteered amount and, if so, the period for which such interest is to be computed. Section 171 of the CGST Act, 2017 casts a statutory obligation on 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 Central Goods and Services Tax Rules, 2017 provides that the amount not so passed on shall be returned to the recipients along with interest at the rate of 18% per annum, calculated from the date of collection of the higher amount till the date of its actual return. The said provision is discretionary, however, in almost all cases decided by us, we have awarded 18% interest to be paid to the allottees. We do not find any special reasons to deviate from the aforesaid view taken by us in other cases.

22. 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 22 of 24paragraph 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."*

23. 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.

24. Interest in such cases is compensatory in nature and is intended to ensure restitution of the time value of money that rightfully belongs to the recipients. Accordingly, the Respondent is liable to pay interest at the rate of 18% per annum from the respective dates of collection of the excess amount until the date of refund.

Penalty

25. Further, insofar as penalty under Section 171(3A) of the CGST Act, 2017 is concerned, the said provision came into force w.e.f. 01.01.2020, and since the period of contravention in the present case extends from 01.07.2017 to 04.08.2022, including the period subsequent to its coming into force of the said provision, penalty under Section 171(3A) of the CGST Act, 2017 is attracted. 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:

26. The Respondent is hereby directed to pass on the profiteered amount of ₹70,58,488/- (inclusive of GST), to the eligible homebuyers, as identified in the DGAP Report dated 15.04.2026 in Annexure-1 for HIG category. The said amount shall be passed on 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 the higher amount from the buyers till the date of its actual refund.

27. A penalty of 10% of the profiteered amount shall be leviable upon the Respondent under Section 171(3A) of the CGST Act, 2017. However, in case the Respondent passes on the entire profiteered amount to the eligible homebuyers within thirty days from the date of passing of this Order, the

penalty leviable under Section 171(3A) of the CGST Act, 2017 shall stand waived.

28. Compliance of this Order shall be reported to the jurisdictional Commissioner within a period of three months from the date of this Order, with a copy to the DGAP.

29. A copy of this Order be forwarded to the Respondent, the Applicants, the Directorate General of Anti-Profiteering, and the jurisdictional CGST/SGST Commissioner(s) for necessary action.

30. The matter stands disposed of accordingly.

31. Order pronounced in the open court.

Digitally signed by SANJAY KUMAR MISHRA
Date:03-09-2026 18:23:18 PM

Dr. S.K. Mishra,

Digitally signed by ANIL KUMAR GUPTA
Date:03-09-2026 18:41:28 PM

Sh. Anil Kumar Gupta,

Date- 02.09.2026