GSTAT

Single Bench Court No. Court IV

NAPA/156/PB/2025

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

Versus

MARUTI DEVELOPERS ....**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.: ZA070010926000161H **Date of order:** 18/09/2026

1.	GSTIN/Temporary ID/UIN - 27AAKFM1505A1ZU	
2.	Appeal Case Reference no. - NAPA/156/PB/2025	Date - 22/11/2024
3.	Name of the appellant - DGAP, dgap.cbic@gov.in, 011-23741544	
4.	Name of the respondent - 1. Maruti Developers, marutigroup2016@gmail.com, 7447440139	
5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -

6.	Personal Hearing - 18/09/2026 10/09/2026 03/09/2026 25/08/2026 18/08/2026 30/07/2026 01/07/2026 27/05/2026 13/05/2026 22/04/2026 16/04/2026 11/03/2026 07/01/2026 28/10/2025
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed
8.	Order in brief - Respondent is required to pass on the amount of Rs. 2,34,671/-, together with applicable GST of Rs. 28,161/-, aggregating to Rs. 2,62,832/-, to the eligible recipients in accordance with the flat-wise details taken on record herein, along with interest at the rate of 18% from the date of collection of the higher amount till the date of return of such amount, in terms of Rule 133(3)(b) of the CGST Rules, 2017.
Summary of Order	
9.	Type of order: Return to Recipient of Amount not passed on, along with interest

Place: DELHI PB

Date: 19.09.2026

ORDER

1. Directorate General of Anti-Profiteering (hereinafter referred to as "DGAP") vide its investigation report dated 24.03.2022 submitted that a reference was received from the Standing Committee on Anti-Profiteering to conduct a detailed investigation in respect of the application filed under Rule 128 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as "the Rules"), alleging profiteering by M/s Maruti Developers, having its registered office at Plot No. 49-50, Veera Desai Road, near Fun Republic, Andheri (West), Mumbai–400053 (hereinafter referred to as "the Respondent"), in respect of the project "Maruti Tower" situated at Malad (West), Mumbai–400064. The Applicant had alleged that the Respondent had not passed on the benefit of Input Tax Credit by way of commensurate reduction in prices upon implementation of GST w.e.f. 01.07.2017, in contravention of the provisions of Section 171 of the Central Goods and Services Tax Act, 2017. The Applicant had also requested that his identity be kept confidential.

2. The aforesaid application was examined by the Standing Committee on Anti-Profiteering and the same was forwarded to the DGAP to conduct a detailed investigation in the matter under Rule 129 of the Rules.

3. Accordingly, the investigation in the matter was concluded and the Investigation Report dated 24.03.2022 was prepared and submitted to the erstwhile National Anti- Profiteering Agency (hereinafter referred to as "NAA") under Rule 129(6) of the Rules.

4. The aforesaid report was pending for orders before the erstwhile NAA (and then before the Competition Commission of India). Meanwhile, in the case of ***Writ Petition No. 7743/2019*** and other connected matters, the Hon'ble High Court of Delhi vide its judgment dated 29.01.2024 gave its findings on the methodology to be adopted for determination of profiteering.

5. Subsequently, taking cognizance of the aforesaid judgment of the Hon'ble High Court of Delhi, the CCI vide letter dated 21.03.2024 directed the DGAP to carry out re-investigation of the present case under Rule 129 of the CGST Rules, 2017.

6. Accordingly, a Notice dated 08.04.2024 was issued by the DGAP to the Respondent for initiation of re-investigation under Rule 129 of the Rules, calling upon it to furnish the requisite information and documents to enable determination of profiteering in terms of the directions of the Hon'ble High Court of Delhi vide judgment dated 29.01.2024. The Respondent was also afforded an opportunity to submit its replies along with supporting documents.

7. In response to the aforesaid Notice, the Respondent submitted its replies vide letters/e-mails dated 26.04.2024, 15.05.2024, 27.05.2024, 11.06.2024, 27.06.2024, 16.07.2024, 14.10.2024 and 30.10.2024, and furnished the requisite information and documents as called for by the DGAP.

8. Upon completion of the re-investigation, the DGAP submitted its report dated 21.11.2024 to the Principal Bench, GSTAT. The same has been summarized as below:

8.1. The DGAP conducted re-investigation for the period 01.07.2017 to 31.03.2019, as the Respondent had opted for the scheme of payment of GST @ 5% without ITC w.e.f. 01.04.2019 and, therefore, the profiteering has been computed only for the period prior thereto.

8.2. The Respondent had discharged GST @ 12% (after 1/3rd abatement towards land value) during the relevant period in terms of Notification No. 11/2017–Central Tax (Rate) dated 28.06.2017, with availability of Input Tax Credit.

8.3. Prior to the introduction of GST, the Respondent was eligible to avail credit of Service Tax paid on input services; however, credit of Central Excise duty paid on inputs was not available. Similarly in the post-GST regime, the Respondent became eligible to avail Input Tax Credit of GST paid on both inputs and input services used in the construction of the project “Maruti Tower”.

8.4. Accordingly, the benefit of additional ITC accrued to the Respondent upon implementation of GST.

8.5. The calculation of the profiteered amount, based on the data submitted by the Respondent, has been worked out as tabulated in Table–A below:

Table- A

Sr. No	Particulars	Total (pre-GST period upto 30.06.2017)	Total (post-GST period from 01.07.2017 to 31.03.2019)
1 .	CENVAT of Service Tax Paid on Input Services (A)	11,83,447	-
2 .	Input Tax Credit of VAT Paid on Purchase for Inputs (b)	-	-
3 .	Input Tax Credit of GST Availed as per GSTR3B returns (C)	-	62,94,879
4 .	Total CENVAT/ITC of VAT/ITC of GST (D = A+B+C)	11,83,447	62,94,879
5 .	Total Purchase value of goods and services for the project (E)	84,71,307	3,56,83,328
6 .	**Percentage/ Ratio of the input tax credit to the purchase value (F = D*100/E)**	13.97%	**17.64%**

From the above Table–A, it is evident that the input tax credit as a percentage of the purchase value has increased from 13.97% in the pre-GST period to 17.64% in the post-GST period, resulting in an additional benefit of 3.67% to the Respondent.

8.6. It is further observed that the Central Government had levied GST @ 18% (effective rate 12% after 1/3rd abatement towards land value) on construction services. Accordingly, the Respondent was liable to pay

GST @ 12% with ITC and, therefore, the additional ITC benefit was required to be passed on to the homebuyers.

8.7. On the basis of the above findings, the DGAP has computed the amount of profiteering by applying the additional ITC benefit of 3.67% on the post-GST purchase value and apportioning the same on a per square foot basis, as tabulated in Table–B below:

Table – B

Particulars		**Post- GST**
Period	A	July, 2017 to March, 2019
Ratio of Credit availed to Purchase Value as per Table-A above (%)	B	13.97/17.64
Increase in input tax credit availed post-GST (%)	C	3.67
Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post- GST Period	D	3,56,83,328
Total savings on account of additional ITC benefit	E= D*C/100	13,09,578.14
Total saleable area (in Sq. Ft.) as per the list of buyers	F	20,617.14
Total saving per Sq. Ft.	G= E/F	63.52
Total Sold Area (in Sq. Ft)	H	6,162.59
Profiteered amount	I= G*H	3,91,448

From Table–A and Table–B above, it is clear that the additional ITC benefit of 3.67% ought to have resulted in a commensurate reduction in prices. However, the Respondent has not passed on the benefit of such ITC to the buyers. Accordingly, in terms of Section 171 of the CGST Act, 2017, the Respondent has profiteered an amount of Rs. 3,91,448/-. After adding GST @ 12%

amounting to Rs. 46,973/-, the total profiteered amount comes to Rs. 4,38,421/-, which is required to be passed on to the eligible homebuyers.

9. Furthermore, the DGAP in compliance of the Order dated 01.07.2026 filed its clarifications on 12.08.2026, stated as under:

9.1. During the preparation of the Investigation Report dated 21.11.2024, it was observed that the Respondent had availed total GST ITC of Rs. 62,94,879/- during the period from July 2017 to March 2019. However, an amount of Rs. 5,26,200/- out of the said ITC had remained unutilized up to March 2019 and, upon opting for the new scheme, the Respondent was not eligible to utilize the same. The Respondent subsequently reversed the said amount vide DRC-03 dated 24.07.2026. Accordingly, the DGAP deducted Rs. 5,26,200/- from the total ITC of Rs. 62,94,879/- and considered net ITC of Rs. 57,68,679/- for the purpose of profiteering computation.

9.2. Accordingly, the revised profiteering calculation, after giving effect to the aforesaid ITC reversal and considering the applicable period, was furnished by the DGAP as under:

Sr. No.	**Particulars**	**Pre- GST Period**	**Post- GST Period**
1 .	Purchase Value of Goods and Services (Excluding Taxes and Duties)	84,71,307	3,56,83,328
2 .	Credit of Service Tax availed	11,83,447	-
3 .	Credit of VAT availed	-	-

4 .	Total Credit availed in Pre- GST Period	11,83,447	-
5 .	ITC of GST Availed	-	62,94,879
6 .	Reversal of ITC of GST	-	5,26,200
7 .	Net ITC of GST utilized (Sl. 5 - Sl. 6)	-	57,68,679
8 .	Ratio of Credit Availed to Purchase Value (in %)	13.97%	16.17%
	Difference	**2.2**	

9.3. From the above Table-A, it was observed that the input tax credit as a percentage of the purchase value increased from 13.97% in the pre-GST period to 16.17% in the post-GST period, resulting in an additional ITC benefit of 2.2% to the Respondent. The DGAP further stated that the Respondent was liable to pay GST @ 12% with ITC and, therefore, the additional ITC benefit was required to be passed on to the homebuyers.

9.4. On the basis of the above findings, the DGAP computed the amount of profiteering by applying the additional ITC benefit of 2.2% on the post-GST purchase value and apportioning the same on a per square foot basis, as under:

Sl. No.	**Particulars**		**Post GST**
1 .	Period	A	01.07.2017 to 31.03.2019
2 .	Ratio of Credit availed to Purchase Value as per Table- A above (%)	B	13.97/16.17
3 .	Increase in input tax credit availed Post- GST (%)	C	2.2
4 .	Purchase Value of Goods and Services (Excluding Taxes and Duties) during Post- GST Period	D	3,56,83,328
5 .	Total Savings on account of additional ITC benefit	E= D*C/100	7,85,033
6 .	Total Saleable Area (in Sq. Ft.)	F	20,617.14

7 .	Total Saving Per Sq. Ft.	G= E/F	38.08
8 .	Total Sold Area (in Sq. Ft.) till the date of Occupancy Certificate	H	6,162.59
9 .	Profiteered Amount	I= G*H	2,34,671
10 .	GST@12% on profiteered Amount	J= I*12%	28,161
11 .	**Total Profiteering Amount including GST@12%**	**K= I+J**	2,62,832

9.5. From the above Table-B, the DGAP stated that the additional ITC benefit of 2.2% ought to have resulted in a commensurate reduction in the base price as well as the cum-tax price. Accordingly, in terms of Section 171 of the CGST Act, 2017, the benefit of such additional ITC was required to be passed on to the homebuyers. The DGAP determined the profiteered amount as Rs. 2,34,671/- and, after adding GST @ 12% amounting to Rs. 28,161/-, determined the total profiteering amount at Rs. 2,62,832/-, which was required to be passed on to the eligible homebuyers.

KEY OBSERVATIONS AND FINDINGS:

10. Hearings in the matter were held on 07.01.2026, 11.03.2026, 16.04.2026, 22.04.2026, 01.07.2026, 03.09.2026 and 10.09.2026. Shri Ajay Kumar Tehlan, learned AAD, appeared on behalf of the DGAP, while Shri Prasanna Sudke, Chartered Accountant, appeared on behalf of the Respondent.

11. During the hearing held on 03.09.2026, the Respondent accepted the revised computation furnished by the DGAP vide its Clarification dated 12.08.2026 and submitted that the benefit determined therein would be passed on to the eligible homebuyers by 09.09.2026. Subsequently, vide submissions dated 09.09.2026, the Respondent furnished the flat-wise details of the amounts payable/receivable from the respective flat-buyers, after giving effect to the profiteering amount determined by the DGAP in its revised Report. The said details are tabulated below:

S. No	Name of the Buyer	flat number	Area of the flat of the buyers In Square Feet	Savings per Sq. Ft.	Profiteered amount (including GST @ 12%)	Amount Receivable as per Books (Rs)	Less: Profiteering Amount Payable as per DGAP Report (Rs.)	Net amount recievable/ payable
1 .	Mr.Siddharth J Jogi & Mrs. Falguni Siddharth Jogi (Additonal area purchase)	202	243	38.08	10,364	8,47,538	10,364	8,37,174
2 .	MR. PARESH JAMNADAS SHAH & MRS. SUREKHA PARESH SHAH	502	462	0	-	-	-	-
3 .	Mrs ANITA SANJAY HALPATI & Mr.SANJAY BHIKUBHAI HALPATI	602	462	38.08	19,704	-	-	-19,704
4 .	Mrs. Nisha S Agrawal & Mr. Ashish S Agrawal	703	712.79	38.08	30,400	-	-	-30,400
5 .	MR. Ashish Vaghani & Mr.Mahesh Lal Vaghani	801	462.5	38.08	19,725	-	-	-19,725

6 .	Mrs.Kalpana Shetye & Mr.Rajan Shetye (Additional Area Purchase)	802	191.8	38.08	8,180	-	-	-8,180
7 .	Mr.Pranav Ravishankar Mishra & Mrs. Reena Pranav Mishra & Mr. Prashant Ravishankar Mishra & Mrs. Pratibha Prashant Mishra	803	697.75	38.08	29,759	-	-	-29,759
8 .	MR. Ashish Vagllani & Mr. Mahesh Lal Vaghani	901	462.5	38.08	19,725	-	-	-19,725
9 .	Mr. NIMESH MANSUKHL AL SHAH & Mrs. MITTAL NIMESH SHAH	902	653.75	0	-	-	-	-
10 .	MRS. RUBY SIDDHARTH A BANERJI & MS. TINA BANERAJEE	903	697.75	0	-	-	-	-
11 .	Mrs.Varsha J Ojha & Mr. Jayesh Ojha	1001	462.5	38.08	19,725	-	-	-19,725
12 .	MRS AARTI SAUMITRA MISHRA & MR. SAUMITRA ANAND MISHRA	1002	653.75	38.08	27,882	-	-	-27,882

13.	Mr. GHANSHYAM SHYAMLAL AGRAWAL & Mrs. Lakshmi GHANSHYAM AGRAWAL	1003	697.75	0	-	-	-	-
14.	Mrs. NALINI AJITSINH RAMAIYA, Ms. KANAN AJITSINH RAMAIYA & Mr.PURAV PARESH RAMAIYA	1101	462.5	38.08	19,725	-	-	-19,725
15.	Mr. PARESH AJITSINH RAMAIYA, Mrs. SONAL PARESH RAMAIYA & Mr.PURAV PARESH RAMAIYA	1102	653.75	38.08	27,882	-	-	-27,882
16.	Deepa Samir Shroff & Samir P Shroff	1103	697.75	38.08	29,759	-	-	-29,759
17.	MR. Pinkesh DHANSUKHLAL BILLIMORIA & MRS. PUNITA DHANSUKHLAL BILLIMORIA	1201	462.5	0	-	-	-	-
18.	Hansa P Zaveri	1202	653.75	0	-	-	-	-
19.	Mr. ATIT ASHOK AGARWAL & Mrs. DIMPLE ATIT AGARWAL	1203	697.75	0	-	-	-	-

12. We have carefully considered the Re-investigation Report dated 21.11.2024, the subsequent Clarification dated 12.08.2026 furnished by the DGAP pursuant to the directions contained in the Order dated 01.07.2026, the submissions made by the Respondent and the documents placed on record. The Re-investigation Report had determined the profiteered amount at Rs. 3,91,448/-, with applicable GST of Rs. 46,973/-, aggregating to Rs. 4,38,421/-. Subsequently, upon clarification sought by this Authority regarding utilisation of the Input Tax Credit, the DGAP took into consideration the unutilised ITC of Rs. 5,26,200/-, which was subsequently reversed by the Respondent through FORM GST DRC-03 dated 24.07.2026. Accordingly, the net GST ITC was revised from Rs. 62,94,879/- to Rs. 57,68,679/-, resulting in revision of the post-GST ITC ratio from 17.64% to 16.17% and the corresponding additional benefit from 3.67% to 2.20%. On this revised basis, the profiteered amount was recomputed at Rs. 2,34,671/-, with applicable GST of Rs. 28,161/-, aggregating to Rs. 2,62,832/-.

13. We find that the aforesaid revision in computation has been made by the DGAP after duly taking into consideration the reversal of the unutilised ITC of Rs. 5,26,200/- by the Respondent. We further find that the methodology adopted and the figures arrived at in the revised computation are in accordance with the facts and material available on record. Accordingly, we accept the DGAP's Clarification dated 12.08.2026 and the revised computation contained therein.

14. We further note that the Respondent, during the hearing held on 03.09.2026, accepted the revised computation and submitted that the benefit determined therein would be passed on to the eligible homebuyers. The Respondent thereafter furnished, vide submissions dated 09.09.2026, the flat-wise computation/reconciliation indicating the amount attributable to each recipient after giving effect to the revised profiteering computation. On examination, we find that the Respondent has reconciled the revised profiteering amount of Rs. 2,34,671/-, together with applicable GST of Rs. 28,161/-, aggregating to Rs. 2,62,832/-, amongst the respective recipients in accordance with the area of the units and the revised benefit determined by the DGAP. The said flat-wise reconciliation and the amounts indicated therein are accordingly taken on record.

15. At this stage, it is relevant to refer to Section 171 of the CGST Act, 2017, which provides as under:

"*Section 171. Anti-profiteering measure. —*

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Provided that the Government may by notification, on recommendations of the Council, specify the date from which the said Authority shall not accept *any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.*

Explanation 1. — For the purposes of this sub-section, request for examination" shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Explanation 2. — For the purposes of this section, the expression Authority" shall include the Appellate Tribunal".

(3) The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.

(3A) 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.

Explanation. — For the purposes of this section, the expression profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services or both."

16. Section 171(1) thus requires the benefit of input tax credit to be passed on to the recipient by way of commensurate reduction in prices. The present proceedings concern the determination of the benefit attributable to the Respondent during the relevant period and the consequent amount required to be passed on to the eligible recipients.

17. The provisions governing the return of the amount not passed on, together with interest, are contained in Rule 133(3)(b) of the CGST Rules, 2017. The provision, as relied upon in the present proceedings, reads 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."*

18. Accordingly, the Respondent is required to pass on the amount of Rs. 2,34,671/-, together with applicable GST of Rs. 28,161/-, aggregating to Rs. 2,62,832/-, to the eligible recipients in accordance with the flat-wise details taken on record herein, along with interest at the rate of 18% from the date of collection of the higher amount till the date of return of such amount, in terms of Rule 133(3)(b) of the CGST Rules, 2017.

19. We further direct the Respondent to furnish an affidavit before the concerned jurisdictional authorities, undertaking that, in respect of Mr. Siddharth J. Jogi and Mrs. Falguni Siddharth Jogi, Flat No. 202, against whom the profiteering amount of Rs. 10,364/- has been adjusted from the amount otherwise receivable by the Respondent, in the event the said homebuyers make payment of the amount so adjusted, the Respondent shall forthwith pay/refund the said amount of Rs. 10,364/- to the concerned homebuyers, along with applicable interest in accordance with law. The Respondent shall ensure that the benefit determined in these proceedings is ultimately received by the eligible homebuyers.

20. In so far as the penalty under Section 171(3A) of the CGST Act, 2017 is concerned, we note that the period under investigation in the present case is from 01.07.2017 to 31.03.2019. Since Section 171(3A), which provides for imposition of penalty for profiteering, was brought into force with effect from 01.01.2020, the said provision was not in force during the period under investigation. Accordingly, no penalty under Section 171(3A) of the CGST Act, 2017 is imposable upon the Respondent in the present proceedings.

21. In view of the above, the DGAP's Clarification dated 12.08.2026 and the revised computation contained therein are accepted. The profiteered amount is accordingly determined at Rs. 2,34,671/-, along with applicable GST of Rs. 28,161/-, aggregating to Rs. 2,62,832/-. The flat-wise amount payable to the respective eligible homebuyers, inclusive of GST @ 12%, is set out below:

Sr. No.	Name of Homebuyer(s)	Flat No.	Profiteered Amount including GST @ 12%
1 .	Mr. Siddharth J. Jogi & Mrs. Falguni Siddharth Jogi	202	10,364
2 .	Mrs. Anita Sanjay Halpati & Mr. Sanjay Bhikubhai Halpati	602	19,704
3 .	Mrs. Nisha S. Agrawal & Mr. Ashish S. Agrawal	703	30,400
4 .	Mr. Ashish Vaghani & Mr. Mahesh Lal Vaghani	801	19,725
5 .	Mrs. Kalpana Shetye & Mr. Rajan Shetye	802	8,180
6.	Mr.Pranav Ravishankar Mishra & Mrs. Reena Pranav Mishra & Mr. Prashant Ravishankar Mishra & Mrs. Pratibha Prushunt Mishra	803	29,759
7.	Mr. Ashish Vaghani & Mr. Mahesh Lal Vaghani	901	19,725
8.	Mrs. Varsha J. Ojha & Mr. Jayesh Ojha	1001	19,725
9.	Mrs. Aarti Saumitra Mishra & Mr. Saumitra Anand Mishra	1002	27,882
10.	Mrs. NALINI AJITSINH RAMAIYA, Ms. KANAN AJITSINH RAMAIYA & Mr.PURAV PARESH RAMAIYA	1101	19,725
11.	Mr. PARESH AJITSINH RAMAIYA, Mrs. SONAL PARESH RAMAIYA & Mr.PURAV PARESH RAMAIYA	1102	27,882
12.	Deepa Samir Shroff & Samir P. Shroff	1103	29,759
Total			**2,62,830**

The aforesaid profiteered amounts shall be passed on to the respective eligible homebuyers along with interest at the rate of 18% from the date of collection of the higher amount till the date of return, in terms of Rule 133(3)(b) of the CGST Rules, 2017.

22. The Respondent shall comply with the aforesaid directions within a period of 30 days.

23. Order pronounced in open court.

Digitally signed by ARABANDI VENU PRASAD
Date:19-09-2026 13:58:43 PM

(Sh. A. Venu Prasad)

Dated: 18.09.2026