

BEFORE THE NATIONAL ANTI-PROFITEERING AUTHORITY
UNDER THE CENTRAL GOODS & SERVICES TAX ACT, 2017

Case No.	76 /2022
Date of Institution	30.08.2022
Date of Order	30/09/2022

In the matter of:

1. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicant

Versus

M/s K D Lite Developers Pvt. Ltd., 1st Floor, Plot No. 273, Near Big Bazaar, Senapati Bapat Road, Matunga Road west, Mumbai- 400016.

Respondent

Quorum:-

1. Sh. Amand Shah, Chairman
2. Sh. Pramod Kumar Singh, Technical Member
3. Sh. Mahesh Rustogi, Technical Member

Present :-

1. None for the Applicant No.1
2. None for the Respondent

ORDER

1. The National Anti-Profiteering Authority (NAA) vide Order No. 57/2022 dated 05.08.2022 has given the following order:

13. "As discussed above, this Authority concurs with the DGAP report dated 28.10.2020. The Authority determines that the Respondent has profited by Rs. 1,45,87,404/- in respect of the project "Ruparel Orion" during the period from 01.07.2017 to 31.12.2019 which includes Rs. 86215/- of the Applicant No. 1 and orders refund/return/passing on of the profited amount, if not already done, along with the interest @18% thereon, from the date, when the above determined profited amount was profited by him till the date of such payment, in line with the provisions of Rule 133 (3) (b) of the CGST Rules 2017."

15. "Since the Respondent has profited in the instant project, there is every likelihood that he has profited in other projects also under GST No. 27AAECK9069N1ZQ. The Authority has reason to believe that the Respondent may have resorted to profiteering in the other projects also and hence, directs the DGAP under Rule 133(5) to investigate all the other projects of the Respondent under the same GST registration which have not yet been investigated from the perspective of Section 171 of the CGST Act, 2017 and submit the complete investigation report for all the Projects under this single GST Registration."

2. Therefore, the DGAP in his Report dated 30.08.2022 submitted under Rule 133(5) of CGST Rules, 2017 inter-alia stated that:-

- i) On receipt of the aforesaid Order issued by the NAA, a Notice of Initiation of Investigation under Rule 129 of the Rules was issued by the DGAP on 22.08.2022, calling upon the Respondent to reply as to whether he admit that the benefit of ITC had not been passed on to the consumers by way of commensurate reduction in price.

- ii) The period covered by the current investigation was from 01.07.2017 to 31.07.2022.
- iii) In response to the Notice dated 22.08.2022, the Respondent submitted his reply vide letter and e-mails dated 23.08.2022. The Respondent informed that the company was developing a single project named as "Ruparel Orion" under the said GSTIN 27AAECK9069N1ZQ and the company did not have any other project.
- iv) The subject application, various replies of the Respondent and the documents/evidences on record had been carefully examined. The main issues for determination are: -
- a) Whether there was benefit of reduction in rate of tax or ITC on the supply of construction service by the Respondent after implementation of GST w.e.f. 01.07.2017 and if so,
 - b) Whether the Respondent passed on such benefit to the recipients by way of commensurate reduction in price, in terms of Section 171 of the CGST Act, 2017.
- v) The Authority vide Order No. 57/2022 dated 05.08.2022, directed DGAP to conduct investigation in respect of all other projects of the Respondent under the same GST registration no. 27AAECK9069N1ZQ which had not yet been investigated from the perspective of the Section 171 of the CGST Act, 2017 and submit the complete investigation Report for all the projects under this single GST registration to the Authority for determination whether the Respondent was liable to pass on the benefit of ITC in respect of



all the other Projects to the buyers, or not, as per the provisions of Section 171(1) of the above Act.

- vi) During the investigation, it is observed that project at "Ruparel Orion", had already been investigated by DGAP and submitted the Report dated 28.10.2020. For this Investigation Report, the Authority had passed Order No.57/2022 dated 05.08.2022 under Section 171 of the CGST Act, 2017 and confirmed the profiteered amount of Rs 1,45,87,404/-. It was observed that in the NAA's Order No. 57/2022 dated 05.08.2022, the above Project had actually been considered for profiteering as mentioned in para 13 of the Order No. 57/2022 dated 05.08.2022. Hence the contention of the Respondent appears to be true and therefore this project need not be analyzed again for determination of profiteering.
- vii) To verify the correctness of the statement with respect to RERA Registration as claimed by the Respondent, the official website of Maharashtra Real Estate Regulatory Authority was visited and it was observed that there was only one Project registered in MHRERA. For further confirmation of this fact a letter to the Jurisdictional Commissioner had also been written.
- viii) On the basis of the details of outward supply of Construction services submitted by the Respondent, it was also observed that the service was supplied in the State of Maharashtra only.

3. The Authority has carefully examined the Report of the DGAP and the case records and it has been observed that the Respondent had developed only single project named as

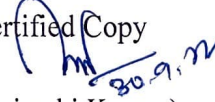
“Ruparel Orion” under the GSTIN 27AAECK9069N1ZQ which had already been investigated by the DGAP and the Authority had passed Order No.57/2022 dated 05.08.2022 under Section 171 of the CGST Act, 2017 in the instant project.

4. A copy of this order be supplied free of cost to the Respondent and the DGAP. File of the case be consigned after completion.

S/d
(Amand Shah)
Technical Member &
Chairman

S/d
(Pramod Kumar Singh)
Technical Member

S/d
(Mahesh Rustogi)
Technical Member

Certified Copy

(Rajarshi Kumar)
NAA, Secretary

F.No. 22011/NAA/219/KD Lite/2020

Dated: 30.09.2022

Copy To:

1. M/s KD Lite Developers Pvt Ltd, 1st Floor, Plot No. 273 near Big Bazaar, Senapati Bapat Road, Matunga Road West.
2. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.
3. Guard File