



**BEFORE THE COMPETITION COMMISSION OF INDIA**

**(AUTHORITY UNDER SECTION 171 OF THE CENTRAL GOODS & SERVICES TAX ACT, 2017)**

I. O. No. : 12/2023  
Date of Institution : 12.02.2020  
Date of Order : 24.11.2023

**In the matter of:**

1. Sh. Sandeep Bansal, 7/902, Vipul Belmonte, Golf Course Road, Sec-53, Gurgaon, Haryana – 122002.
2. Ms. Pratibha Bansal, 7/902, Vipul Belmonte, Golf Course Road, Sec-53, Gurgaon, Haryana – 122002.
3. Ms. Nupur Bansal, 7/902, Vipul Belmonte, Golf Course Road, Sec-53, Gurgaon, Haryana – 122002.
4. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s Ireo Grace Realtech Pvt. Ltd., Regd. Office: 304, Kanchan House, Karampura Commercial Complex, New Delhi-110015.

Respondent

**Quorum:-**

1. Smt. Ravneet Kaur, Chairperson
2. Sh. Anil Agrawal, Member.
3. Ms. Sweta Kakkad, Member.
4. Sh. Deepak Anurag, Member.

**Present :-**

1. None for the Applicant No. 1 to No. 3.
2. Sh. Lal Bahadur, AC, Sh. Nitin Prakash Dudhyal, AAD & Sh. Diwakar Sharma, Inspector for the DGAP.
3. Sh. Gajendra Maheshwari, Advocate for the Respondent.

**ORDER**

1. The present Report dated 12.02.2020 has been received from the Director General of Anti-Profiteering (DGAP) after detailed re-investigation under Rule 129 (6) of the Central Goods & Service Tax (CGST) Rules, 2017 pursuant to Interim Order No 14/2019 dated 21.10.2019 passed by the erstwhile National Anti-Profiteering Authority (NAA) under Rule 133(4) of the CGST Rules, 2017.
2. The brief facts of the present case are that the Applicant No. 1 to 3 had filed an application before the Standing Committee on Anti-profiteering under Rule 128 of the CGST Rules, 2017, alleging profiteering by the Respondent in respect of purchase of Flat No. CD-A5-09-902 in the Respondent's project "The Corridors", situated in Sector 67A, Gurgaon, Haryana. The aforesaid reference was examined by the Standing Committee on Anti-profiteering, in its meetings held on 07.08.2018 & 08.08.2018, whereby it was decided to refer the matter to the DGAP, to conduct a detailed investigation. The said application was examined

by the DGAP and the Investigation Report dated 21.02.2019 under Rule 129(6) of the Rules, was furnished to the NAA. Vide the said Report, it was submitted that on the basis of the CENVAT/Input Tax Credit availability pre and post-GST and the details of the amount collected by the Respondent from home buyers during the period 01.07.2017 to 31.08.2018, the amount of benefit of input tax credit that has not been passed on by the Respondent to the recipients or in other words, the profiteered amount worked out to Rs. 1,05,66,623/- which included 12% GST on the base profiteered amount of Rs. 94,34,484/-. Thus, it was concluded that the Respondent had contravened the provisions of Section 171 of the CGST Act, 2017.

3. In pursuance to the above Report of the DGAP, the NAA, after carefully considering the Report filed by the DGAP, the submissions of the Applicant No. 1, 2 & 3 and the Respondent and other material placed on record had observed certain discrepancies in the DGAP's Report dated 21.02.2019 and vide the above I.O. No. 14/2019, the NAA referred the matter back to the DGAP and directed him to re-investigate the matter and to submit a comprehensive report on the following grounds:-

- a. The Respondent had claimed to have built 2036 Units whereas, DGAP's Report dealt with 855 units only. The basis of taking 855 units for calculation of profiteered amount has not been mentioned in the Report.
- b. Respondent had claimed that the total saleable area was 38,55,037 sq. ft. whereas DGAP had considered saleable area as 36,68,002 sq. ft. The difference in the figures of total saleable area had not been explained.

- c. Total ITC/Cenvat pertained to 2036 units and if the same was taken into account, the entire calculation of the profiteered amount would change. This aspect had not been considered in the DGAP's Report.
  - d. Whether the proportionate ITC had been reversed for the units which had remained unsold at the time of Occupancy Certificate, since Occupancy Certificate has already been issued in respect of 710 units as had been admitted by Respondent.
4. As per the directions of the erstwhile NAA passed vide I.O. No. 14/2019 under Rule 133 (4) of the CGST Rules, 2017, the DGAP furnished his Report dated 12.02.2020, stating therein, as under:-
- a. A letter was issued to the Respondent on 20.11.2019, calling upon him to submit the information/ documents required to re-investigate the matter. In response the Respondent submitted his reply vide various letters/emails.
  - b. The Respondent has received Occupancy Certificate ('OC') for 710 Units (698 residential units & 12 shops) having saleable area of 12,37,810 square feet out of a total of 2036 units (2009 residential units, 26 shops & 1 Club). In respect of units for which he has received OC, Respondent has reversed CENVAT/ITC of Rs. 9,38,26,746/- towards unsold units. Therefore, the ITC availed post-GST period (after reversal) pertains to sold units only.
  - c. As, the Respondent has received OC for part of the project and remaining project is still under construction as on 31.10.2019, therefore, profiteering, has been computed by the DGAP in two parts (i) Units where OC has been received and (ii) Units which are still under construction as on 31.10.2019.
  - d. On the basis of revised information and documents submitted by the Respondent, the DGAP has observed that prior to 01.07.2017, i.e., before

the GST was introduced, the Respondent was eligible to avail CENVAT credit of Service Tax paid on Services but no credit was available in respect of Central Excise Duty and VAT paid on the inputs. However, post-GST, the Respondent could avail ITC of GST paid on all the inputs and the input services including the sub-contracts. As per the information submitted by the Respondent for the period from April, 2016 to October, 2019, the details of the ITC availed by him, his turnovers from the project "The Corridors", the ratios of ITC to turnover, during the pre-GST (April, 2016 to June, 2017) and post-GST (July, 2017 to October, 2019) periods, have been furnished by the DGAP in Table-A below:-

**Table-'A'**

(Amount in Rs.)

S. No.	Particulars	Total 01.04.2016 to 30.06.2017 (Pre-GST)	Total Post-GST for Units (OC received)	Total 01.07.2017 to 31.10.2019 (Post-GST) for Units (OC not received)
(1)	(2)	(3)	(4)	(5)
1	CENVAT of Service Tax Paid on Input Services used (A)	16,84,19,691	-	-
2	Input Tax Credit of VAT Paid on Purchase of Inputs (B)	-	-	-
3	Input Tax Credit of GST Available (C)	-	7,63,57,841	20,56,04,414
4	Less: ITC of GST reversed for Unsold Units on receiving of CC (D)	-	3,53,45,686	-
5	Net CENVAT/Input Tax Credit Available (F)= (A+B) or (C-D-E)	16,84,19,691	4,10,12,155	20,56,04,414
6	Total Turnover for Residential Flats & Shops (Net of Cancellation)(I)= (G+H)	3,23,90,76,407	68,03,63,609*	73,68,12,239
7	Total Saleable Area (in SQF) (J)	38,55,037		26,17,227
8	Total Sold Area relevant to turnover as per Home Buyers List (in SQF) (K)	12,24,971		3,86,836
9	Relevant ITC [(L)= (F)*(K)/(J)]	5,35,16,798	4,10,12,155	3,03,89,106
	<b>Ratio of Input Tax Credit Post-GST [(M)=(J)/(I)]</b>	<b>1.65%</b>	<b>6.03%</b>	<b>4.12%</b>

- \* Note: With regard to units where OC has been received, the ITC availed (after reversal for unsold area) pertained to all the units sold before the OC was received. Further, the demand to be raised post-GST as on 30.06.2017 and to be raised for units sold during 01.07.2017 till OC was received was well-known to the Respondent. Therefore, for the purpose of computation of ratio of ITC to Taxable Turnover during post-GST period, the total demand to be raised post GST has been considered.
- e. From the above Table- 'B', it is clear that the ITC as a percentage of the turnover that was available to Respondent during the pre-GST period (April, 2016 to June, 2017) was 1.65% and during the post- GST period (July, 2017 to receipt of OC), it was 6.03%. This clearly confirmed that post-GST, the Respondent has been benefited from additional ITC to the tune of 4.38% [6.03% (-) 1.65%] of the turnover. Similarly, in case where OC has not been received, ITC as a percentage of the turnover that was available to the Respondent during the post- GST period (July, 2017 to Oct., 2019) was 4.12%. This clearly confirmed that post-GST, the Respondent has benefited from additional ITC to the tune of 2.47% [4.12% (-) 1.65%] of the turnover. Accordingly, the profiteering has been examined by comparing the applicable tax rate and ITC available in the pre-GST period (April, 2016 to June, 2017) when Service Tax @4.50% was payable with the post-GST period (July, 2017 to October, 2019) when the effective GST rate was 12% (GST @18% along with 1/3<sup>rd</sup> abatement for land value) on construction service, vide Notification No.11/2017-Central Tax (Rate), dated 28.06.2017. Accordingly, on the basis of the figures contained in Table-'A' above, the

comparative figures of the ratios of input tax credit availed/available to the turnover in the pre-GST and post- GST periods as well as the turnover, the recalibrated base price and the excess realization (profiteering) during the post-GST period, has been furnished by the DGAP in Table-B below:-

**Table- 'B**

(Amount in Rs.)

S. No.	Particulars		Post- GST	
			After 01.07.2017 for Units (where OC received)	01.07.2017 to 31.10.2019 for Units (where OC not received)
1	Period	A		
2	Output GST Rate (%)	B	12%	12%
3	Ratio of CENVAT credit/ Input Tax Credit to Total Turnover as per Table - 'A' above (%)	C	6.03	4.12
4	Increase in input tax credit availed post-GST (%)	D= C less 1.65%	4.38	2.47
5	<b><u>Analysis of Increase in input tax credit:</u></b>			
6	BSP amount to be collected/raised as on 30.06.2017 from Customers made bookings in Pre-GST period	E	63,13,74,271	-
7	BSP Amt. (Agreement Value) to be Collected/raised from Customers made bookings during 01.07.2017 to 31.05.2019(before receiving OC)	F	4,89,89,338	-
8	BSP amount Collected/raised from Customers during 01.07.2017 to 31.10.2019 (Where OC not received)	G		73,68,12,239
9	Total Turnover Post-GST	H=(E+F) or (G)	68,03,63,609	73,68,12,239
10	GST @ 12% over Base Price	I=H*12%	8,16,43,633	8,84,17,469
11	Total amount to be collected/raised	J=H+I	76,20,07,242	82,52,29,708
12	Recalibrated Base Price	K= (H)*(1-D)	65,05,63,683	71,86,12,977

13	GST @12%	$L=K*12\%$	7,80,67,642	8,62,33,557
14	Commensurate demand price	$M=K+L$	72,86,31,325	80,48,46,534
15	Excess Collection of Demand or Profiteering Amount	$N= J-M$	<b>3,33,75,917</b>	<b>2,03,83,174</b>
16	Total Excess Collection of Demand or Profiteering Amount	$O=Sum\ of\ N$	<b>5,37,59,091</b>	

- f. As per Table-'B' above, the DGAP has deduced that the additional ITC of 4.38% and 2.47% of the turnover should have resulted in the commensurate reduction in the base price as well as cum-tax price. Therefore, in terms of Section 171 of the CGST Act, 2017, the benefit of such additional ITC was required to be passed on by the Respondent to the respective recipients.
- g. As regards the amount of additional benefit of ITC in cases where OC has been received on 31.05.2019, the DGAP has reported that on the basis of the aforesaid CENVAT/input tax credit availability pre and post-GST and the details of the amount to be collected by the Respondent from the home buyers as on 30.06.2017 and the new bookings made post 01.07.2017 till OC was received, the amount of benefit of ITC that has not been passed on by the Respondent to the recipients or in other words, the profited amount came to Rs. 3,33,75,917/- which included GST @12% on the base profited amount of Rs. 2,97,99,926/-.
- h. Similarly, amount of additional benefit of ITC where OC has not been received, the DGAP has reported that on the basis of the aforesaid CENVAT/ITC availability pre and post-GST and the details of the amount to be collected by the Respondent from the Applicants and other home buyers during the period from 01.07.2017 to 31.10.2019, the amount of benefit of ITC that needed to be passed on by the Respondent to the recipients,



came to Rs. 2,03,83,174/- which included 12% GST on the base profiteered amount of Rs. 1,81,99,262/-.

i. On the basis of the submissions of the Respondent, the DGAP has given parawise submissions to the issues raised by the NAA vide I.O. No. 14/2019 as is mentioned below:-

- i. Although Respondent has built total 2036 units, but he has sold only 855 units as on 31.08.2018 which was mentioned in para-20 of DGAP's investigation Report dated 21.02.2019. The remaining 1181 units (2036 – 855) were unsold as on 31.08.2018 and the ITC pertaining to these unsold units was outside the scope of this investigation as the likelihood sale of these units before receiving OC was not known during the course of investigation and in case these units remained unsold on the date of receiving of OC, the Respondent was required to reverse the ITC in terms of provisions of Section 17 of the Central Goods and Services Tax Act, 2017 which is mentioned in para-14 of DGAP's investigation report dated 21.02.2019.
- ii. The Respondent had not submitted the details of 187035 sq. ft. area pertaining to Joint Development Agreement (JDA), Retail & Club which has been now considered and profiteering has been revised accordingly.
- iii. Although Respondent has built total 2036 units, but he has sold 862 units as on 31.10.2019. Out of remaining 1174 (2036 – 862) unsold units, Respondent has already reversed ITC pertaining to 286 units, where OC has been received and for remaining 888 units unsold as on 31.10.2019 the Respondent is required to recalibrate the selling

price of units to be sold to prospective buyers by considering the net benefit of additional ITC available to him post-GST as mentioned in para-12 of Report of DGAP.

- iv. DGAP's investigation Report dated 21.02.2019 covers the period from 01.07.2017 to 31.08.2018, whereas Respondent has received the OC on 31.05.2019 which is after the period of Investigation. However, the DGAP has extended the period of investigation by another 14 months i.e. till 31.10.2019 to consider the submission of reversal of input tax credit on receipt of OC and recomputed the revised profiteering amount accordingly.
- v. Thus, the DGAP has submitted that the benefit of additional ITC to the tune of 4.38% (were OC received) and 2.47% (where OC not received) of the turnover, has accrued to the Respondent post-GST and the same was required to be passed on by the Respondent to the Applicants and other recipients. The provisions of Section 171 of the CGST Act, 2017 have been contravened by the Respondent in as much as the additional benefit of ITC @4.38% of the amount to be collected by the Respondent from the home buyers as on 30 June 2017 and the new bookings made post 01.07.2017 till OC was received, has not been passed on to the recipients and by 2.47% of the base price received by the Respondent during the period 01.07.2017 to 31.10.2019, has not been passed on by the Respondent to the Applicants and other recipients. On this account, the Respondent has realized an additional amount to the tune of Rs.

16,988/- from the Applicants. Further, the investigation reveals that the Respondent has also realized an additional amount of Rs. 5,37,42,103/-, from 621 other recipients who are not Applicants in the present proceedings. These recipients are identifiable as per the documents provided by the Respondent, giving the names and addresses along with Unit No. allotted to such recipients. Therefore, this additional amount of Rs. 5,37,42,103/- is required to be returned to such eligible recipients.

5. The above report of the DGAP dated 12.02.2020 was considered by the erstwhile NAA and it was decided to allow the Respondent and the Applicant No. 1 to 3 to file their consolidated written submissions in respect of the above Report of the DGAP. Notice dated 19.02.2020 was also issued to the Respondent directing him to explain why the above Report furnished by the DGAP should not be accepted and his liability for violation of the provisions of Section 171 of the CGST Act, 2017 should not be fixed.
6. The Respondent filed his submissions dated 02.11.2020, 23.12.2020, 16.02.2021 and 28.03.2022 vide which he has inter-alia stated that:-
  - a. Section 171 of the CGST Act, 2017 is *ultra vires* the Constitution of India as the same is violative of Article 19(1)(g) of the Constitution.
  - b. The CGST Act and the CGST Rules empowered the NAA to lay down the methodology for determining the manner in which the benefit of reduced GST rate or enhanced credit shall be passed on to the recipient. However, no precise computation methodology or principles have been laid down by the NAA.
  - c. The formula adopted by the DGAP for calculation of profiteering is

illogical in as much as the DGAP has failed to consider the nuances specific to the Real Estate industry.

- d. The computation of profiteered amount by the DGAP is based on a comparison of the transactions of the Respondent while undertaking two different phases of the project, which could not be practically compared and would bring about ambiguous and fictitious results.
- e. The data considered for the GST regime (28 months) is twice the time period (approx) considered for the erstwhile indirect tax regime GST regime (15 months). Moreover, the DGAP has cited no reasons in the Report to account for such comparison on the basis of differential time period. A comparison of data (i.e., ITC, sales turnover etc.) would be logical only when the same is conducted with an analogous time period.
- f. CENVAT credit of Service Tax paid on Input Services used during the period 01.04.2016 to 30.06.2017 amounting to Rs. 16,84,19,691/- appeared to be fallacious, since the DGAP has not mentioned whether such amount is the actual amount of CENVAT credit availed by the Respondent or whether the same is a 'notional value' corresponding to the ITC availed under the GST regime.
- g. ITC of the GST reversed for the unsold units for the period 01.07.2017 to 31.10.2019 (units for which OC not received) should have been deducted in the computation from the total ITC available under GST. In the absence of any such deduction, in any event, the basis adopted by the DGAP for computing the profiteering is incorrect.
- h. This relevance of OC is only with respect to output turnover and the same does not have any direct nexus with respect to the ITC availed by

the Respondent during GST or erstwhile indirect tax regime.

- i. He has passed on the benefit of additional ITC amounting to Rs. 1,94,67,655/- to the customers/home-buyers in compliance of Section 171 of the CGST Act, 2017 by way of reduction in price via issuance of the tax credit note and the same is duly intimated to the customers vide e-mail correspondence. The fact that the price has been reduced and thereby tax credit note has been issued to the customers by him for passing the benefit of ITC in compliance of Section 171 of the CGST Act, 2017 is duly certified by the Chartered Accountant. He has also submitted copy of Chartered Accountant's Certificate.
7. Clarifications were also sought from the DGAP on the above submissions of the Respondent under Rule 133(2A) of the CGST Rules, 2017. The DGAP vide letters dated 23.11.2020 and 24.05.2022 has submitted clarifications and has interalia stated that:-
- a. The methodology adopted in the present case is correct and strictly as per law enshrined in Section 171 of the CGST Act, 2017. The methodology has been consistently adopted by the DGAP and upheld by the erstwhile NAA in all similar cases. The quantum of profiteering has been determined by taking into account the particular facts of each case. Hence, there cannot be one-size-fits-all mathematical methodology.
  - b. The CENVAT Credit of Service Tax paid on Input services used amounting to Rs. 16,84,19,691/- has been taken from the Service Tax Returns ST-3 submitted by the Respondent. The bifurcation of amount has been provided by the DGAP as is mentioned in the Table given below:-

S. No	Period	CENVAT Credit
1	April 2016 to September 2017	5,71,37,522/-
2	October 2016 to March 2017	7,67,30,933/-
3	April 2017 to June 2017	3,45,51,236/-
Total		<b>16,84,19,691/-</b>

- c. The ITC pertaining to the unsold units was outside the ambit of this investigation and the Respondent is required to recalibrate the selling price of such units to be sold to the prospective buyers by considering the net benefit of additional ITC available to him post-GST. This is as per the relevant GST Act and the Rules. The benefit of ITC has been computed on the area sold by proportionating the total ITC available to the area sold relevant to turnover. The benefit has not been calculated on the unsold area nor is the Respondent being asked to pass on the benefit on the unsold area.
- d. That period of investigation covered is from the introduction of GST to the latest month of the receipt of the I.O. No. 14/2019. Since, the above Order was received on 15.11.2019 and the Respondent had received OC on 31.05.2019, the period of investigation had to be extended upto 31.05.2019.
- e. If the investigation was restricted upto August, 2018 then other customers or flat buyers who have purchased the flats post August, 2018 and who had not filed any application, would have been deprived of the benefit of ITC required to be passed on to them under the provisions of Section 171 of the CGST Act, 2017. Since each customer/flat buyer is entitled to receive the due benefit of ITC on services received from the Respondent, the investigation was extended upto October, 2019 to cover

such customers/flat buyers also. Further, the period of investigation taken i.e. from April 2016 to October 2019 was not the beginning and ending phase of the project as claimed by the Respondent.

- f. That the claim of the Respondent that he has passed on benefit of ITC amounting to Rs. 1,94,67,655/- to his customers is not correct as he has provided the documentary evidence on sample basis. Hence, the claim of the Respondent cannot be verified unless the complete documentary evidence along with e-mail IDs of all the customers is provided.
8. The Commission vide its Meeting held on 05.10.2023 decided to grant hearing to the interested parties on 02.11.2023. Notice dated 11.10.2023 was also issued to the Respondent and the Applicants to appear for final hearing in the present case. Hearing in this matter was held on 02.11.2023. Sh. Gajendra Maheshwari, Advocate appeared on behalf of the Respondent and Sh. Lal Bahadur, AC, Sh. Nitin Prakash Dudhyal, AAD & Sh. Diwakar Sharma, Inspector appeared on behalf of the DGAP. However, the Applicant No. 1 to 3 did not appear for the hearing. During the course of hearing, the Id. Counsel for the Respondent advanced arguments on the methodology adopted for computation of the profiteered amount. He further sought time to present final arguments covering all the issues related to the case. The Respondent was granted one last opportunity of hearing on 09.11.2023 to advance his final arguments before the Commission. The authorized representative of the Respondent appeared for the hearing on 09.11.2023 and completed arguments in the present matter.
9. The Commission has carefully considered the Reports furnished by the DGAP, the submissions made by Respondent and the Applicant No. 1 to 3 and the

other material placed on record . The Report dated 12.02.2020 submitted by the DGAP has been carefully examined by the Commission and it is found that:-

- a. An application was filed by the Applicant No. 1 to No. 3 before the Standing Committee on Anti-profiteering under Rule 128 of the CGST Rules, 2017, alleging profiteering by the Respondent in respect of purchase of Flat No. CD-A5-09-902 in the Respondent's project "The Corridors", situated in Sector 67A, Gurgaon, Haryana. The said application was examined by the DGAP and the Investigation Report dated 21.02.2019 under Rule 129(6) of the Rules, was furnished to the NAA. Vide the said Report, it was submitted that on the basis of the CENVAT/Input Tax Credit availability pre and post-GST and the details of the amount collected by the Respondent from home buyers during the period 01.07.2017 to 31.08.2018, the amount of benefit of input tax credit that has not been passed on by the Respondent to the recipient or in other words, the profited amount worked out to Rs. 1,05,66,623/- which included 12% GST on the base profited amount of Rs. 94,34,484/-. Thus, it was concluded that the Respondent had contravened the provisions of Section 171 of the CGST Act, 2017.
- b. In pursuance to the above Report of the DGAP, the NAA had observed certain discrepancies in the DGAP's Report dated 21.02.2019 and vide the above I.O. No. 14/2019, the NAA referred the matter back to the DGAP and directed him to re-investigate the matter.
- c. As per the directions of the NAA passed vide I.O. No. 14/2019 under Rule 133 (4), the DGAP has furnished the present Report dated 12.02.2020.



- d. The DGAP re-investigated the matter and has found that the amount of additional benefit of ITC where OC has been received on 31.05.2019, on the basis of the aforesaid CENVAT/input tax credit availability pre and post-GST and the details of the amount to be collected by the Respondent from the home buyers as on 30.06.2017 and the new bookings made post 01.07.2017 till OC is received, the amount of benefit of ITC that has not been passed on by the Respondent to the recipients or in other words, the profiteered amount came to Rs. 3,33,75,917/- which included GST @12% on the base profiteered amount of Rs. 2,97,99,926/-.
- e. Similarly, amount of additional benefit of ITC where OC has not been received, the DGAP has reported that on the basis of the aforesaid CENVAT/ITC availability pre and post-GST and the details of the amount to be collected by the Respondent from the Applicants and other home buyers during the period 01.07.2017 to 31.10.2019, the amount of benefit of ITC that needed to be passed on by the Respondent to the recipients, came to Rs. 2,03,83,174/- which included 12% GST on the base profiteered amount of Rs. 1,81,99,262/-.
10. One of the contentions of the Respondent is that he has passed on benefit of ITC amounting to Rs. 1,94,67,655/- to his customers/home-buyers in compliance of Section 171 of the CGST Act, 2017 by way of reduction in price via issuance of the Credit Note and the same has been duly intimated to the customers vide e-mails. He has also submitted Chartered Accountant's (CA) Certificate stating thereby that Credit Notes have been issued to the customers/home-buyers by the Respondent for passing the benefit of ITC in compliance of Section 171 of

the CGST Act, 2017. With respect to the above submissions of the Respondent, the DGAP has submitted that the claim of the Respondent that he has passed on benefit of ITC amounting to Rs. 1,94,67,655/- to his customers is not correct as he has provided the documentary evidence on sample basis and hence, the claim of the Respondent cannot be verified unless the complete documentary evidence along with e-mail IDs of all the customers is provided. With respect to the above contention of the Respondent and without going into the merits of the case, the Commission observes that the claim of the Respondent regarding passing on the benefit of additional ITC needs to be verified. The Respondent is directed to provide all the documentary evidence i.e. "Names of the home-buyers, their E-mail ids/Mobile Nos./Addresses, Amount of ITC benefit passed on to each home-buyer, Copies of Tax invoice, Credit Notes and Cheques issued to each home-buyer, Copies of Bank Statements highlighting the amount of ITC benefit passed on to the home-buyers and Acknowledgement Receipts from all the home-buyers stating that they have received the additional benefit of ITC" to the DGAP to prove his above claim duly certified by the Authorised person of the Respondent.

11. The claim of the Respondent regarding passing on the benefit of ITC to the customers/home-buyers shall be verified by the DGAP by contacting the customers/home buyers by seeking their replies regarding receipt of benefit of ITC. Hence, the Commission under Rule 133(4) of the CGST Rules, 2017 directs the DGAP to further investigate the claim of the Respondent regarding passing on the benefit of ITC and thus, recalculate the profiteered amount in respect of the project 'The Corridors', if required.

12. The Respondent is also directed to extend all necessary assistance to the

DGAP and furnish him with necessary documents or information as required during the course of the investigation.

13. A copy of this order be supplied to all the parties free of cost and file of the case be consigned after completion.


Sd/-  
(Deepak Anurag)  
Member

Sd/-  
(Sweta Kakkad)  
Member

Sd/-  
(Anil Agrawal)  
Member

Sd/-  
(Ravneet Kaur)  
Chairperson

Certified Copy

  
(Anupama Anand)  
(Secretary)

F. No. 22011/NAA/66/Ireo/2020 / 1204-1207

Dated:- 29.11.2023

Copy to:

1. M/s Ireo Grace Realtech Pvt. Ltd., 304, Kanchan House, Karampura Commercial Complex, New Delhi-110015.
2. Sh. Sandeep Bansal, Ms. Pratibha Bansal and Ms. Nupur Bansal, 7/902, Vipul Belmonte, Golf Course Road, Sector-53, Gurugram, Haryana-122002.
3. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
4. Guard File.