



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

Case No. : 20/2023  
Date of Institution : 04.03.2020  
Date of Order : 24.11.2023

**In the matter of:**

1. The Principal Commissioner, Hyderabad Commissionerate, GST Bhavan, L. B. Stadium Road, Basheerbagh, Hyderabad-500004.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Gole Market, New Delhi-110001.

Applicants

Versus

M/s Krishna Enterprises (Legal Name: Bagayath Krishna Reddy), Plot No. 132, Nandi hills, Raidurgam, Jubilee Hills, Hyderabad, Telangana – 500033.

Respondent

**Coram:-**

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,
2. Sh. Lal Bahadur, Assistant Commissioner for the DGAP,
3. None for the Respondent.

## ORDER

1. The present Report dated 03.03.2020 has been received from the Director-General of Anti-Profiteering (**DGAP**) after a detailed investigation under Rule 129 (6) of the Central Goods & Service Tax (**CGST**) Rules, 2017. The brief facts of the case and findings of investigation conducted by the DGAP are as under:-

- i. A reference was received from the Standing Committee on Anti-profiteering on 09.10.2019, to conduct a detailed investigation in respect of an application filed by the Applicant No. 1, under Rule 128 of the CGST Rules, 2017, alleging profiteering by the Respondent in respect of supply of "Services by way of admission to exhibition of cinematography films". The Applicant No. 1 had alleged that the Respondent did not pass on the benefit of reduction in the GST rate on the aforesaid movie admission tickets, from 18% to 12% w.e.f. 01.01.2019, vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018 and instead, increased the base price to maintain the same cum-tax selling price as detailed in Table-'A' below:-

**Table-"A"**

Category of Ticket	Price of Ticket is Rs. 100/-		Price of Ticket is Rs. 80/-	Price of Ticket is Rs. 60/-	Price of Ticket is Rs. 30/-
Before (01.01.2019)	Base Price	84.75	67.80	50.85	25.42
	Tax Rate	18%	18%	18%	18%
	Tax Amount	15.25	12.20	9.15	4.58
	<b>Total</b>	<b>100.00</b>	<b>80.00</b>	<b>60.00</b>	<b>30.00</b>
On or after (01.01.2019)	Base Price	89.29	71.43	53.57	26.79
	Tax Rate	12%	12%	12%	12%
	Tax Amount	10.71	8.57	6.43	3.21
	<b>Total</b>	<b>100.00</b>	<b>80.00</b>	<b>60.00</b>	<b>30.00</b>
Price without profiteering ought to be	Base Price	84.75	67.80	50.85	25.42
	Tax Rate	12%	12%	12%	12%
	Tax Amount	10.17	8.14	6.10	3.05
	<b>Total</b>	<b>94.92</b>	<b>75.94</b>	<b>56.95</b>	<b>28.47</b>
<b>Alleged Profiteering</b>	<b>Profiteering amount per Ticket</b>	<b>5.08</b>	<b>4.06</b>	<b>3.05</b>	<b>1.53</b>



- ii. The Applicant No. 1 had enclosed copies of tickets pre & post 01.01.2019, copy of letter dated 01.03.2019 of the Respondent confirming non-reduction of the prices of tickets along with his application in APAF-1 form.
- iii. The above application was examined by the Standing Committee on Anti-profiteering and was forwarded to the DGAP to conduct a detailed investigation in the matter. Accordingly, the DGAP decided to initiate an investigation and collect evidence necessary to determine whether the benefit of reduction in rate of tax had been passed on by the Respondent to the recipients in respect of supply of "Services by way of admission to exhibition of cinematography films" supplied by the Respondent.
- iv. The DGAP issued a Notice on 22.10.2019 under Rule 129 of the CGST Rules, 2017 to the Respondent calling upon the Respondent to reply as to whether he admitted that the benefit of reduction in rate of tax had not been passed on to the recipients by way of commensurate reduction in prices and if so, to suo moto determine the quantum thereof and indicate the same in his reply to the Notice as well as furnish all supporting documents. Vide the said Notice, the Respondent was also given an opportunity to inspect the non-confidential evidences/information furnished by the Applicant No. 1 during the period 30.10.2019 to 31.10.2019, which the Respondent did not avail.  
Vide e-mail dated 13.02.2020, the Applicant No. 1 was afforded an opportunity to inspect the non-confidential documents/reply furnished by the Respondent on 18.02.2020 & 19.02.2020, which the Applicant No. 1 did not avail of.
- v. The period covered by the current investigation was from 01.01.2019 to 30.09.2019.
- vi. In response to the DGAP's Notice dated 22.10.2019 and subsequent reminders, the Respondent did not submit the complete requisite documents. Hence, summons under Section 70 of the Central Goods and Services Tax Act, 2017 read with Rule 132 of the Rules, were issued on 03.01.2020 to Sh. B Krishna Reddy, Proprietor of M/s. Krishna Enterprises, asking him to appear in the office of DGAP on 09.01.2020 and produce the relevant documents. In response to the summons dated 03.01.2020, the Respondent vide e-mail dated 09.01.2020 submitted partial documents. The Respondent submitted his replies vide letters and e-mails dated

04.11.2019, 13.11.2019, 09.01.2020, 17.01.2020 and 23.01.2020. The replies of the Respondent have been summed up as follows:-

- a) The Respondent has submitted that his theatre was having single screen and four classes namely (a) Balcony, (b) Dress Circle, (c) 1st Class and (d) 2nd class. The ticket slab rates were as is furnished in Table- 'B':-

**Table-“B”**

S.No.	Class	Ticket Price (Inc. GST)	Cost of ticket when GST was 18%	Cost of ticket when GST was 12%
1	Balcony	100	84.75	89.29
2	Dress Circle	80	67.80	71.43
3	1 <sup>st</sup> Class	60	50.85	53.57
4	2 <sup>nd</sup> Class	30	25.42	26.79

- b) The Respondent also informed that when big films were released, the distributors got special permission from Hon'ble High Court to increase the cost of tickets for one week and after getting permission from Hon'ble High Court, the revised ticket prices were fixed.
- vii. Vide the aforementioned letters; the Respondent had submitted the following documents/information:-
- a) Copies of GSTR-1 & GSTR- 3B returns for the period December, 2018 to September, 2019.
- b) Register of daily sales of tickets for the period December, 2018 to September, 2019.
- c) Details of Class Wise Monthly Summary of Box Office Collection for the period from December, 2018 to September 2019.
- d) Sample copies of tickets pre and post 01/01/2019.
- viii. The DGAP intimated that the Respondent submitted the documents in a piecemeal manner; he did not co-operate during the course of investigation and had not submitted the reconciliation of turnover reported in GSTR-3B Return with the box office turnover as per Monthly Summary of Box Office Collection Sheet. In the Notice dated 22.10.2019, the Respondent was informed that if any information/documents are provided on confidential basis, in terms of Rule 130 of the Rules, a non-confidential summary of such information/documents was required to be furnished. However, the



Respondent had not classified his information/documents as confidential in terms of Rule 130 of the CGST Rules, 2017.

- ix. The Central Government, on the recommendation of the GST Council, reduced the GST rate on "Services by way of admission to exhibition of cinematography films where price of admission ticket was one hundred rupees or less" was reduced from 18% to 12% w.e.f. 01.01.2019 vide Notification No. 27/2018-Central Tax (Rate) dated 31.12.2018.
- x. Section 171(1) of Central Goods and Services Tax Act, 2017 which governed the anti-profiteering provisions under GST stated that "Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit should be passed on to the recipient by way of commensurate reduction in prices." Thus, the legal requirement was that in the event of a benefit of input tax credit or reduction in rate of tax, there must be a commensurate reduction in prices of the goods or services. Such reduction can obviously be only in terms of money, such that the final price payable by a consumer got reduced commensurate with the reduction in the tax rate which was the legally prescribed mechanism for passing on the benefit of input tax credit or reduction in rate of tax to the recipients under the GST regime and there was no other method which a supplier could adopt to pass on such benefits. From 01.01.2019, the Respondent, in terms of Section 171 of the CGST Act, 2017, was bound to maintain the Base Price of the tickets across all class of seats/slots and GST should have been charged on the pre rate reduction Base Price.
- xi. As regards profiteering, the DGAP has observed that there were basically four classes of tickets in the Respondent's theater, namely, 'Balcony', 'Dress Circle', '1<sup>st</sup> Class' and '2<sup>nd</sup> Class'. For the purpose of determination of profiteering, the number of tickets sold during the period 01.12.2018 to 31.12.2018 (pre-GST rate reduction) were taken and an average base price (after discount) was obtained on dividing the total taxable value by total number of tickets sold during this period. The average commensurate selling price of the ticket was compared with the actual selling price of the tickets sold during post-GST rate reduction i.e. on or after 01.01.2019 as illustrated in the Table-'C' below:-

**Table-'C'**

(Amount in Rupees)

Sl. No.	Description	Factors	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (From 01.01.2019)
1.	Theater Name	A	Amba 70mm	
2.	Ticket Category	B	Balcony	
3.	Ticket Selling Price	C	100/-	100/-
4.	Total No. of tickets sold	D	6,776	
5.	Total taxable value (after Discount, if any)	E	5,74,266/-	
6.	Average base price (without GST)	$F=(E/D)$	84.75/-	
7.	GST Rate	G	18%	12%
8.	Actual Selling price (post rate reduction)(including GST)	$H=118\% \text{ of } F$	100/-	
9.	Commensurate Selling price (post Ratereduction) (including GST)	$I=112\% \text{ of } F$		94.92/-
10.	Post Reduction Month	J		Jan., 2020
11.	Total No. of Tickets sold in above Month	K		9365
12.	Total Tickets Value (including GST)	L		9,36,500
13.	Actual Selling price (post rate reduction) (including GST)	$M=L/K$		100/-
14.	Excess amount charged of Profiteering	$N=M-I$		5.08/-
15.	Total Profiteering	$O= K*N$	<b>47,574/-</b>	

- xii. The DGAP has claimed from the above Table-"C" that the Respondent did not reduce the selling prices commensurately of the "Movie Tickets", when the GST rate was reduced from 18% to 12% w.e.f. 01.01.2019, vide Notification No.27/2018 Central Tax (Rate) dated 31.12.2018 and hence profiteered an amount of Rs. 5.08/- per ticket in the Balcony class and thus the benefit of reduction in GST rate was not passed on to the recipients by way of commensurate reduction in price, in terms of Section 171 of the Central Goods and Services Tax Act, 2017. On the basis of above calculation as illustrated in Table 'C' above, profiteering in case of all the tickets of the Respondent in all the classes have also been arrived in similar way which has been furnished in Table-'D' below:-



Table-'D'

(Amount in Rupees)

S I. N o.	Description	Fact o rs	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (01.01.2019 to 30.09.2019)	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (01.01.2019 to 30.09.2019)	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (01.01.2019 to 30.09.2019)	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (01.01.2019 to 30.09.2019)
1.	Class of Ticket	A	Balcony		Dress Circle		1 <sup>st</sup> Class		2 <sup>nd</sup> Class	
2.	Ticket Selling Price	B	100/-	100/-	80/-	80/-	60/-	60/-	30/-	30/-
3.	Total No. of tickets sold	C	6,776	63,069	6070	43,057	4236	47,715	7839	51,227
4.	Total taxable value(after Discount, if any)	D	5,74,266/-	56,31,431	4,11,546	30,75,562	2,15,401	25,56,093	1,99,267	13,72,371
5.	Average base price (without GST)	E=D / C	84.75/-	89.29/-	67.80/-	71.43/-	50.85/-	53.57/-	25.42/-	26.79/-
6.	GST Rate	F	18%	12%	18%	12%	18%	12%	18%	12%
7.	Actual Selling price (post rate reduction) (including GST)	G=E* (1+ F)	100/-	100/-	80/-	80/-	60/-	60/-	30/-	30/-
8.	Commensurate Selling price (post Rate reduction) (including GST)	H=11 2% of E		94.92/-		75.936/-		56.952/-		28.47/-
9.	Excess amount charged or Profiteering per Ticket	I= G - H		5.08/-		4.064/-		3.048/-		1.53/-
10.	Total Profiteering	J=C *I		3,20,391		1,74,984/-		1,45,435/-		78,377/-
11.	Total Profiteering (K)		Rs. 7,19,187/-							

- xiii. The DGAP has observed from the above Table-"D" that the Respondent had increased the base prices during the period from 01.01.2019 to 30.09.2019 to maintain the same selling prices (or MRPs) resulting in the customers to pay the same price for the tickets which they were paying

prior to reduction in rate of tax from 18% to 12% w.e.f. 01.01.2019 and hence had denied the benefit of reduction in rate of tax to his recipients.

- xiv. On the basis of the details of outward supplies of the tickets (Services) submitted by the Respondent, the DGAP has noticed that the Respondent has sold admission ticket in the State of Telangana only.

2. Consequently, the DGAP has concluded that the allegation of profiteering by way of increasing the base prices of the tickets (Services) by way of not reducing the selling prices of the tickets (Services) commensurately, despite the rate reduction in GST rate on "Services by way of admission to exhibition of cinematography films where price of admission ticket was one hundred rupees or less" was reduced from 18% to 12% w.e.f. 01.01.2019, was not passed on to the recipients appeared to be correct. The DGAP has stated that the total amount of profiteering covering the period from 01.01.2019 to 30.09.2019, was **Rs. 7,19,187/-**. The recipients of the services were not identifiable as no such details of the consumers have been provided.
3. The above Report was considered by the erstwhile Authority in its meeting held on 06.03.2020 and it was decided that the Applicants and the Respondent be given an opportunity of hearing on 24.03.2020 and to file their submissions before the Authority. Notice dated 06.03.2020 was issued to the above Respondent asking him to explain why the Report dated 03.03.2020 furnished by the DGAP should not be accepted and his liability for violating the provisions of Section 171 of the above Act should not be fixed. Meanwhile, the Respondent had filed Writ Petition (Civil) No. 18660/2020 before the Hon'ble High Court of Telangana. The proceedings were stayed by the Hon'ble Court in the present case. The Hon'ble Court vide order dated 10.03.2021 has disposed of the aforesaid Writ Petition directing the Respondent to submit his explanation in response to the erstwhile Authority's notice dated 06.03.2020. Accordingly, the Respondent vide his letter dated 10.04.2021 has filed his written submissions. The personal hearing in the matter was accorded to the Respondent and Applicants on 28.04.2022, 07.06.2022, 06.07.2022, 03.08.2023, 17.08.2023 and 09.11.2023. Neither the Respondent nor the Applicant No. 1 appeared in the above hearings. During the course of proceedings, the Respondent has filed his submissions dated 08.10.2020, 10.04.2021 and 16.08.2023 wherein he has inter-alia stated that:-



- (a) The Respondent was located in Mehdiapatnam, Hyderabad and was screening films under the Licence issued by the Licensing Authority i.e. Commissioner of Police, Hyderabad and was paying the Entertainment Tax under Andhra Pradesh Entertainment Tax Act before the GST was introduced. After introduction of GST, the Respondent was paying the tax under GST Act.
- (b) From 01.01.2019, the Government of Telangana & Central Govt. had reduced the tax rate from 28% to 18% and 18 to 12% on the rate of tickets for admission. The DGAP had issued notice directing him to submit explanation. He was also directed to submit the invoices from 01.01.2019 to 30.09.2019 alongwith the price list, sample copies and GST Returns.
- (c) The theatre business was a day-to-day business and he was not keeping any stock in hand. The theatre was screening films on weekly basis. The theatre owner had no independent right to increase or decrease the ticket price and he had to obtain permission from the Licensing Authority i.e., Commissioner of Police, Hyderabad. During the period from 01.01.2019 to 30.09.2019, a number of films were released and he had submitted statements/copies of daily collection reports. He has also stated that he had not violated any conditions and the ticket rate included tax which was collected and paid. On 01.01.2019 (Tuesday) a film was running from 28.12.2018 for a week which was to end on 03.01.2019 and at the most, the Respondent was liable for payment of profiteering amount for three days only as running of picture had ended on 03.01.2019 and the Respondent was changing the film every week and no profit would accrue to him on the running of film. For example if the goods were stocked with the trader and the price/tax was decreased and trader sold the stocks at the same rate to the purchaser and profit would accrue after deduction of tax to the trader then anti-profiteering would come into effect in such case. In this case, there was no stock or service involved after week end. Every thursday was a day when week ended for cinema theatre. If the tax was effective w.e.f. 01.01.2019 then at the most, it could be affected on the theatre owner for that week only ending on 03.01.2019. Therefore, the Respondent has claimed that service was not provided after 03.01.2019 as new film was released and the rate of admission was controlled by State Government Authorities.

- (d) Some times when big films were released, the distributor would get special permission to increase the cost of tickets for one week. After getting the permission from Hon'ble High Court he would fix the revised rates of tickets. Accordingly, when the cost of tickets excluding GST exceeded Rs. 100/-, he would collect 18% GST on the ticket cost and pay the GST accordingly.
- (e) As the rate of GST tax was reduced from 18% to 12% and the base price was changed and parallely, the difference was reflected in GST rate. The following calculation has been given for reference:-

Sl. No.	Class	Rate of Admission	GST tax 18/118%	Basic Price 18/118%	GST Tax 12/112%	GST Tax 12/112%
1	Balcony	100	15.25	84.75	10.71	89.29
2	Second Class	60	9.15	50.85	6.43	53.57
3	Third Class	30	4.58	25.42	3.21	26.79

As the Difference in base price from 18/118% to 12/112% was reflecting in GST rate and no part of the benefit was related to the consumer as the rate of Admission was fixed at Rs. 80/- or Rs. 60/- or Rs. 30/- and the rate of admission was base price plus Tax amount. The benefit of difference which arose in base price would increase in the rate of Tax only and the benefit went to Government in form of Taxes. The difference in increase of base price was not the profit to the Respondent as the Tax was simultaneously paid to the Government.

4. The DGAP vide his supplementary Reports dated 26.10.2020 and 12.07.2021 on the Respondent's submissions dated 08.10.2020 and 10.04.2021 has submitted as under:-
- (a) The Respondent had submitted pre and post GST rate reduction ticket slab rates of all four classes namely (a) Balcony, (b) Dress Circle, (c) 1<sup>st</sup> Class and (d) 2<sup>nd</sup> class which was a factual matter of record and was also submitted by the Respondent during the course of investigation. The same was duly considered by the DGAP in his investigation Report dated 03.03.2020.
- (b) Under Rule 11B (3) of the Andhra Pradesh Cinema (Regulation) Rules, 1970, the Licensing Authority has the power to fix the ceiling/maximum price. Rule 11B (3) read as follows:-



"3) (a) *The licensing authority, while granting or renewing a licence in Form-B,3 shall also fix the maximum rates of payment for admission to the different classes in the licensed premises.*

*(b) These rates shall not be increased during the currency of the licence without an order in writing by the licensing authority permitting such increase.*

*(c) The order of the licensing authority is liable to be cancelled or modified by the Government, if they consider such a course Just or necessary.*

*(d) Any person aggrieved by the order of the licensing authority may appeal to the Government who may make such order as it deemed fit."*

(c) Further, it was nowhere mentioned in the above Rule that the maximum price fixed was inclusive of applicable taxes. Further and more pertinently, as the Licensing Authority only fixed the maximum Rate, the rate so fixed did not interdict the Respondent or other theatre owners/operators from reducing the ticket price in order to commensurately pass on the benefits of reduction in tax rates.

(d) As already submitted the State Government only fixed the maximum rate of movie ticket. The cinema management was free to sell the tickets at the lower price e.g. in the event of reduction of taxes. The State Government came into picture only when the cinema management wanted to increase the price of tickets beyond the maximum rate already fixed.

(e) Further, reference was also made to the provisions of Section 171 of Central Goods and Services Tax Act, 2017 which governed the anti-profiteering provisions under GST which read as "*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.*" Thus, the legal requirement was that in the event of benefit of input tax credit or reduction in rate of tax, there must be a commensurate reduction in prices of the goods or services, Such reduction could obviously only be in absolute terms, so that the final price payable by a consumer must get reduced. This was the legally prescribed mechanism for passing on the benefit of input tax credit or reduction in rate of tax to the recipients under the GST regime. Moreover, the DGAP has submitted that the provisions of the said Section 171 of the Central Goods and



Services Tax Act, 2017 were not a transitional provision wherein the benefit of reduction in rate of tax or the benefit of input tax credit was to be passed on to the recipients, only on the stock carried forward on the date of change in rate of tax, rather it covered the future supplies as well. Therefore, the contention of the Respondent that he was liable for payment of amount for three days only as running pictures ended on 03.01.2019 was not correct.

- (f) The Government of India vide Notification No. 27/2018 Central Tax (Rate) dated 31.12.2018 w.e.f. 01.01.2019 reduced the rate of GST from 28% to 18% in the case where price of the admission ticket was above one hundred rupees and from 18% to 12% in the case where price of admission ticket was one hundred rupees or less. Therefore, it was statutory obligation on the Respondent to pass on the benefit of tax reduction from the above date as per the provisions of Section 171(1) of the Central Goods and Services Tax Act, 2017. During the course of investigation the DGAP has found that the Respondent instead of reducing his prices commensurately had in fact increased them from the above date. The Respondent has failed to produce any evidence which could show that he had passed on the above benefit till 30.09.2019. Hence, he had been rightly investigated till the above date. The DGAP has reiterated that he has been following standard procedure for determining the period of investigation till the month before the receipt from Standing Committee which has been upheld by the Authority in other cases. In the present proceedings, DGAP had received the reference from the Standing Committee on Anti-profiteering on 09.10.2019 issued Notice of Investigation on 22.10.2019 and period till 30.09.2019 was covered.
5. Notice dated 11.10.2023 was issued to the Respondent to attend the hearing on 09.11.2023 but he has not appeared inspite of service of the notice therefore, there is no alternative except to proceed against him ex-parte. This Commission has carefully perused all the submissions and the documents placed on record, and the arguments advanced by the Respondent. The Commission needs to determine as to whether there was any reduction in the GST rate and whether the benefit of reduction in the rate of tax was passed on or not to the recipients as provided under Section 171 of the CGST Act, 2017.

Section 171 of the CGST Act provides as under:-



- "(1). Any reduction in rate of tax on any supply of goods or services or the benefit of ITC 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 ITC 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.*
- (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 percent 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 purpose 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 of both."*

6. The Respondent has argued that the cinema business was totally a day to day and show to show business and there was no question of having stock in hand. The theatre was screening the films on show basis. The theatre has no independent right to increase or decrease the ticket prices without obtaining permission from the licensing authorities. When a new film was release it totally was a new business and there was no occasion to stock it in his premises. The Commission finds that the Respondent was supplying services by way of admission to exhibition of cinematography films. The services are utilized immediately and therefore, question of stocking these services did not arise in the instant case. Also, the words used in the statute are "on any supply" and "to the recipients" which clearly show that the benefit of reduction



in tax has to be calculated on every supply transaction-wise and benefit has to be passed on to each recipient. Therefore, the Respondent's contention was wrong, hence denied.

7. The Respondent has averred that he has no independent right to enhance or reduce the Ticket Rates without permission of Licensing Authority or from Hon'ble High Court. It is evident that the Licensing Authority only fixes the maximum price of the ticket. The Respondent is free to sell the tickets at the lower price i.e. in the event of the reduction in taxes which infact has happened in the subject case. The State Authorities comes into picture only when the theatre owner (the Respondent) wants to increase the prices of tickets beyond the maximum price as fixed by the State Authorities. Therefore, the above plea of the Respondent is not maintainable; hence the same cannot be accepted.
8. The Respondent has contended that the benefit of difference which arose in base price was due to increase in the rate of Tax only and the benefit went to Government in form of Taxes. The commission observes that there was reduction in GST Tax rate from 18% to 12% not increase as stated by the Respondent above. The Respondent should have kept his base prices same to transfer the benefit of Rate reduction to the consumers. Instead, he increased the base prices of tickets thereby pocketing the profit. Therefore, the above contention of the Respondent cannot be accepted.
9. The Commission finds that, as per the details and calculations given in Tables 'C' & 'D' above, the Respondent has profiteered by way of increasing the base prices of the tickets (Services) by not reducing the selling prices of the tickets (Services) commensurately, despite the rate reduction in GST rate on "Services by way of admission to exhibition of cinematography films where price of admission ticket was one hundred rupees or less" from 18% to 12% w.e.f. 01.01.2019. From the Table 'D' above, it is evident that the base prices of the admission tickets were indeed increased, as a result of which the benefit of reduction in GST rate from 18% to 12% (w.e.f. 01.01.2019), was not passed on to the recipients by way of commensurate reduction in prices charged (including lower GST @ 12%). The total amount of profiteering covering the period from 01.01.2019 to 30.09.2019, was Rs. 7,19,187/-.
10. This Commission based on the facts discussed above has found that the Respondent has resorted to profiteering by way of either increasing the base prices of the service while maintaining the same selling prices or by way of not



reducing the selling prices of the service commensurately, despite a reduction in GST rate on "Services by way of admission to exhibition of cinematography films where price of admission ticket was one hundred rupees or less" were reduced from 18% to 12% w.e.f. 01.01.2019 to 30.09.2019. On this account, the Respondent has realized an additional amount to the tune of Rs. 7,19,187/- from the recipients which included both the profiteered amount and GST on the said profiteered amount. Thus the profiteering amount is determined as **Rs. 7,19,187/-** as per the provisions of Rule 133 (1) of the CGST Rules, 2017. The Respondent is therefore directed to reduce the prices of his tickets as per the provisions of Rule 133 (3) (a) of the CGST Rules, 2017, keeping in view the reduction in the rate of tax so that the benefit is passed on to the recipients. The Respondent is also directed to deposit the profiteered amount of **Rs. Rs. 7,19,187/-** along with the interest to be calculated @ 18% from the date when the above amount was collected by him from the recipients till the above amount is deposited. Since the recipients, in this case, are not identifiable, the Respondent is directed to deposit the amount of profiteering of Rs. 3,59,594/- in the Central Consumer Welfare Fund (CWF) and Rs. 3,59,594/- in the Telangana State CWF respectively, as per the provisions of Rule 133 (3) (c) of the CGST Rules, 2017, along with 18% interest. The above amount shall be deposited within a period of 3 months from the date of this Order failing which the same shall be recovered by the Commissioner CGST/SGST as per the provisions of the CGST Act, 2017.

11. It is also evident from the above narration of facts that the Respondent has denied benefit of rate reduction to his customers/recipients in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and has committed an offence under Section 171 (3A) of the above Act. However, perusal of the provisions of Section 171 (3A), under which liability for penalty arises for the above violation, shows that it has been inserted in the CGST Act, 2017 w.e.f. 01.01.2020 vide Section 112 of the Finance Act, 2019 and it was not in operation during the period from 01.07.2017 to 30.09.2019 when the Respondent had committed the above violation and hence, the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively for the said period.
12. Further, the Commission as per Rule 136 of the CGST Rules 2017 directs the jurisdictional Commissioners of CGST/SGST Telangana to monitor this Order

under the supervision of the DGAP by ensuring that the amount profiteered by the Respondent is deposited in the respective CWFs as ordered by this Commission. A Report in compliance of this Order shall be submitted to this Commission by the DGAP within a period of 4 months from the date of receipt of this Order.

13. A copy of this order be supplied to all the interested 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

  
Secretary, CCI

File No. 22011/NAA/143/Krishna(Amba70MM)/2020 / 1208-1312 Dated: 29.11.2023  
Copy To:

1. Dr. B. Krishna Reddy, Proprietor, M/s Krishna Enterprises (Amba 70MM), Plot No. 132, Nandi hills, Raidurgam, Jubilee Hills, Hyderabad, Telangana – 500033, Email: - krishnachildrenshospital@gmail.com (9849017077).
2. Principal Commissioner, Hyderabad Commissionerate, GST Bhawan, L B Stadium, Basheerbagh, Hyderabad-500004.
3. The Commissioner, SGST, C.T Complex, Nampally, Hyderabad-500001 [cst@tgct.gov.in](mailto:cst@tgct.gov.in).
4. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
5. Website/Guard File.