

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

Case No. : 21/2022
Date of Institution : 31.12.2020
Date of Order : 20.06.2022

In the matter of:

1. Shri Santosh, Hyderabad at santhoshsanjay7@gmail.com.
2. Shri Sundeep, Hyderabad at sandeepkumar1034@gmail.com.
3. 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.

Applicants

Versus

M/s Miraj Entertainment Limited (Shalini Shivani Theatres), Besides Chaitanyapuri Metro Station, Kothapet, Hyderabad, Telangana-500060

Respondent

Quorum:-

1. Sh. Amand Shah, Technical Member and Chairman.
2. Sh. Pramod Kumar Singh, Technical Member.
3. Sh. Hitesh Shah, Technical Member.



Present:-

1. None for Applicants No. 1 & 2.
2. Shri Venkata Kameswara Rao, Superintendent for the DGAP.
3. Shri Shyamdhara Pal and Shri Keshav Mallo, Chartered Accountants for the Respondent.

Order

1. The present Report dated 21.12.2020 has been received from the Director General of Anti-Profiteering (DGAP), who has conducted a detailed investigation in respect of two applications filed by Applicant No.1 and Applicant No.2 under Rule 128 of the CGST Rules, 2017, alleging

profiteering by the Respondent to supply of "Services by way of admission to exhibition of cinematography films".

2. The DGAP in his report dated 31.12.2020 has *inter alia*, stated that:-

- (i) Applicant No. 1 & 2 had alleged that the Respondent did not pass on the benefit of reduction in the GST rate on "Services by way of admission to exhibition of cinematograph films", which was reduced w.e.f. 1.1.2019, vide Notification No. 27/2018- Central Tax (Rate) dated 31.12.2018 by way of commensurate reduction in prices, in terms of Section 171 of the CGST Act, 2017, and instead, increased the base prices to maintain the same cum-tax selling prices of the admission tickets.
- (ii) The aforesaid applications were examined by the Standing Committee on Anti-profiteering, in its meeting, the Minutes of which were received by the DGAP on 06.05.2020, whereby it was decided to forward the same to the DGAP to conduct a detailed investigation in the matter. The Standing Committee forwarded the following submission/documents of the Applicant Nos. 1 & 2:-
 - a. Online complaints NAACMP34678 & NAACMP3716 filed by the Applicant No. 1 & 2 respectively.
 - b. Letter dated 30.09.2019 of the Respondent to the Superintendent (Anti-Evasion) regarding his working of ticket prices with GST rates from 1.1.2019 to 3.2.2019.
- (iii) After the receipt of the reference from the Standing Committee on Anti-profiteering, a Notice of Investigation (NOI) dated 03.06.2020 under Rule 129 of the Rules was issued by the DGAP calling upon the Respondent to reply as to whether he admitted that the benefit of reduction in the 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. The Respondent was also allowed to inspect the non-confidential evidence/information furnished by Applicant No. 1 & 2 during the period 19.06.2020 to 22.06.2020, which the Respondent did not avail.
- (iv) The period covered by the current investigation was from 1.1.2019 to 30.4.2020.
- (v) In response to the Notice dated 3.6.2020, the Respondent submitted his reply vide letters and e-mails dated 1.10.2020, 2.10.2020, 31.10.2020, 19.11.2020, 3.12.2020, 16.12.2020, 30.12.2020, and 31.12.2020.

(vi) All the data submitted by the Respondent was confidential. As such there were no details to be shared with Applicant No. 1 & 2, and they could not be provided an opportunity to verify non-confidential information submitted by the Respondent.

(vii) The reply of the Respondent received by the DGAP has been, *inter-alia*, summed up below:

- a. That the prices of the cinema tickets were decided by the Government of Telangana from time to time. The prices fixed only had to be collected by the cinema screen owner and no other separate charges were allowed or permitted. Further, all the taxes calculated on the price were as per the proportion of taxes from time to time and had to be paid. The tax was worked out as prescribed under the relevant Act. In the case of GST, the tax was calculated in the proportion of 18/118 or 28/128, as the case might be prescribed under Rule 35 of the CGST Rules, 2017. The price fixed by the Government was a "fixed amount" and did not have any break up of basic price, GST, Total, etc. i.e. no GST was collected from the customer. The Respondent had also submitted the copy of the license dated 31.05.2017 granted to him by the licensing authority, whereby prices for the shows were fixed. Thus, the price was fixed by the Government of Telangana only and had to be charged irrespective of the tax rates from time to time and the increased liability was to be borne by the cinema screens only.
- b. That he had collected prices fixed as per the license per Order No. GO. Ms. No. 54, Home (Gen. A) Department, dated 26.04.2017, wherein the Government of Telangana accorded permission for the rate of admission to Recliner and Regular Seats, details of which have been mentioned below:-

Sr. No.	Screen	Total No. of Seats	Recliner Seats			Regular Seats		
			No. of Seats	Rate of admission ticket	Rate of admission to 3D films	No. of Seats	Rate of admission ticket	Rate of admission to 3D films
1	Screen-1	94	0	0	0	94	150	175
2	Screen-2	455	28	200	225	427	150	175
3	Screen-3	131	0	0	0	131	150	175
4	Screen-4	607	29	200	225	578	150	175
Total		1287						

- c. That the Respondent had applied before the licensing authority to allow an increase in the rates of tickets for certain movies and provided copies of such applications. However, the Respondent had not submitted the approval for the higher costs, if received from the licensing authority.

N

d. The Respondent submitted calculation of the differential amount payable in respect of tickets sold during the period 1.1.2019 to 3.2.2019 in the Executive (Regular) and Gold (Recliner) categories, which was mentioned in the Table below. In this regard, it was further submitted that out of the alleged excess amount of Rs. 11.74/- per ticket in the Executive (Regular) category and Rs. 16.06/- per ticket in the Gold (Recliner) category, amount of Rs. 9.94/- & 13.25/- respectively were on account of the basic value of the ticket, whereas Rs. 1.80/- and Rs. 2.81/- respectively pertained to the GST amount which stood deposited to the Revenue exchequer. So the Respondent contended that the maximum liability that could arise on him under the anti-profiteering provisions, in any case, could only be Rs. 9,71,532/- in respect of Executive Category and Rs. 87,142/- in the case of the Gold Category, which could be claimed to have been retained by him.

Particulars	Executive	Gold
Amount collected	150.00	200.00
Amount to be collected actually	138.26	183.94
	11.74	16.04
Basic Amount excess collected (per ticket)	9.94	13.25
GST amount excess collected and deposited (per ticket)	1.80	2.81
	11.74	16.06
No. of tickets sold from 01.01.2019 to 03.02.2019	97,753	6,576
Total Basic Amount excess collected	9,71,532.27	87,142.03
Total GST amount excess collected and deposited	1,76,087.95	18,455.38
Grand Total	11,47,620.22	1,05,597.41

e. That average 49.5% of the revenue received on the sale of tickets pertained to Distributors, hence shared by him with the distributors, and the remaining 50.35% only was retained by him. Therefore, out of the total amount mentioned above, only Rs. 5,33,043/- pertained to him. So any demand of profiteered amount if made to him should be made to the extent of 50.35% of the amount only.

(viii) The Respondent submitted the following documents/information:

- Brief profile of the Respondent.
- Invoice-wise details of all outward taxable supplies of the movie admission tickets impacted by GST rate reduction w.e.f. 01.01.2019, during the period 01.12.2018 to 30.04.2020.
- Sample copies of the Invoice/tickets, before and after 01.01.2019.
- GSTR-1 and GSTR-3B Returns for the period December 2018 to April 2020.
- Price list of the movie admission tickets, pre, and post-01.01.2019.
- High Court for Telangana and Andhra Pradesh Orders in WP No. 37873 of 2018.
- License Copy (License No. C2/M2/Cinema/RPC/2016) dated 29.05.2017.
- Sample copies of Invoices/tickets pre and post-01.01.2019.



3. The reference received from the Standing Committee on Anti-profiteering, various replies of the Respondent, and the documents/evidence on record had been examined in detail by the DGAP. The findings of the DGAP are as under:-

- (i) The main issue to be looked into was whether the rate of GST on the "*Services by way of admission to exhibition of cinematography films where price of admission ticket was above one hundred rupees*" was reduced from 28% to 18% w.e.f. 01.01.2019 and "*Services by way of admission exhibition of cinematograph films where price of admission ticket was one hundred rupees or less*" was reduced from 18% to 12% w.e.f. 01.01.2019 and if so, whether the benefit of such reduction in the rate of GST was passed on by the Respondent to the recipients, in terms of Section 171 of the CGST Act, 2017.
- (ii) The DGAP has further submitted that Section 171(1) of CGST Act, 2017 which governs the anti-profiteering provisions under GST states that "*Any reduction in the 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*". Thus, the legal requirement was that in the event of a benefit of ITC or a reduction in the rate of tax, there must be a commensurate reduction in the prices of the goods or services. Such reduction could obviously be only in terms of money, such that the final price payable by a consumer gets reduced commensurate with the reduction in the tax rate. This was the legally prescribed mechanism for passing on the benefit of ITC or reduction in the rate of tax to the recipients under the GST regime and there was no other method that 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 prices. The Respondent can charge the maximum price fixed by the State Government, which was inclusive of taxes, as applicable, and had paid the same to the Government, which was reflected in his statutory returns. Thus, the Respondent had collected as well as paid the GST. Thus, the Respondent's contention that he had not charged GST on the Ticket price separately or additionally, and thus, the base prices were maintained was not acceptable.
- (iii) The Respondent's contention that the price of cinema tickets was decided by the State Government, and had to be charged irrespective of tax rates, was not acceptable. The State Government/ Police Commissioner licensing authority only fixes the maximum rate of a movie ticket. The cinema management was free to sell the tickets at a lower price e.g. in the event of a reduction in taxes. The State Government/ Police Commissioner/ licensing authority comes into the picture only when the cinema



management wants to increase the prices of tickets beyond the maximum rate already fixed. For example, M/s AMB Cinema LLP, Telangana was having cum tax price of Rs. 300/- for platinum seats up to 05.02.2019. On knowing about the Anti-profiteering provisions, he reduced the ticket price to Rs. 277/- after 06.02.2019 and also paid the profiteered amount of Rs. 35,66,308/- and interest of Rs. 60,049/-.


- (iv) There were two classes of seats with distinct prices for normal and 3D cinema i.e. Recliner (Rs. 200/225) and Regular (Rs. 150/175), including taxes, during the pre-rate reduction period effective from 29.05.2017, and the same prices for these two categories were maintained post rate reduction w.e.f. 01.01.2019. Further, the Respondent was charging the same prices for tickets in both categories of seats irrespective of the fact whether the film was a normal one or a 3D film. Similarly, post GST rate reduction w.e.f. 01.01.2019, the Respondent had maintained the same prices in both categories of seats irrespective of the fact whether the film was a normal or 3D film. Also, the Respondent had provided copies of the Application made to the Licensing authority requesting him to hike prices across different categories for specific movies. However, he had not produced a copy of the approval received on his requests. In light of the Respondent's inability to submit substantive & conclusive evidence that such increment in prices were allowed to him by the Authorities, there was no ground to accept his contention. Further, it had been observed that price revision had been done for only a few movies, whereas old rates had been maintained for even those movies where the Respondent had requested for increase in rates from the licensing authority. There were altogether six such movies where ticket prices had been revised upward by the Respondent. These included one "Sye Raa Narasimha Reddy" which was amongst those for which sample request letters had been submitted to the DGAP. Accordingly, the base prices for these movies shall have to be treated the same as for all others, and it has been categorised as exceptions in this Report.
- (v) The issue was the determination and quantification of profiteering by the Respondent, if any, for failing to pass on the benefit of the reduction in the rate of tax on the "*Services by way of admission to exhibition of cinematography films where price of admission ticket was above one hundred rupees*" from 28% to 18% w.e.f. 01.01.2019 and "*Services by way of admission exhibition of cinematograph films where price of admission ticket was one hundred rupees or less*" from 18% to 12% w.e.f. 01.01.2019. From the sales data made available, it appeared that the Respondent increased the bases price of the admission tickets when the GST rate was reduced from 28% to 18% w.e.f. 01.01.2019 in the manner illustrated in Table-'A below. From the Table-'A below, it was observed that the prices of two categories of tickets, including taxes, were maintained:
- 

Table-'A'

Sr. No.	Category	Period (01.12.2018 to 31.12.2018)			Period (01.01.2019 to 30.04.2020)			Profiteering per Ticket (Including GST)
		Price of Ticket	GST Rate	Base Price	Actual Price of Ticket	GST Rate	Commensurate Selling Price	
A	B	C	D	$E=C/128\%$	F	G	$H=E+(E*G)$ (118% of E)	$I=F-H$
1	Recliner	200	28%	156.25	200	18%	184.37	15.63
2	Regular	150	28%	117.18	150	18%	138.27	11.73
3	Exceptions	200	28%	156.25	350	18%	184.37	165.63
		150	28%	117.18	200	18%	138.27	61.73

- (vi) From the above Table- 'A', it was apparent that the Respondent had increased the base prices across both the category of admission tickets. Therefore, in terms of Section 171 of the CGST Act, 2017, the benefit of GST rate reduction from 28% to 18% in respect of "Services by way of admission to an exhibition of cinematography films", was not passed on to the recipients.
- (vii) Having established the fact of profiteering, the next step was to quantify the same. Based on aforesaid pre/ post reduction in GST rates and the details of outward supplies for the period 01.12.2018 to 30.04.2020 submitted by the Respondent, it was observed that profiteering during the period from January 2019 to April, 2020 from the sale of tickets in two categories mentioned in table 'B' below amounts to ₹ 1,31,292/- for Recliner Category, ₹ 11,52,707/- for Regular Category and ₹ 84,18,946/- for exceptions in both the categories of tickets. The total amount of net higher sales realization due to an increase in the base prices of the movie tickets, despite the reduction in GST rate from 28% to 18% or in other words, the profited amount comes to ₹ 97,02,945/-. The brief of the computation has been furnished in the Table 'B' below:-

Table-B

Sr. No.	Category	01.01.2019 to 30.04.2020					
		Base Price per unit in pre-rate-reduction (Excl. GST)	Commensurate Price per unit post-rate-reduction	Actual Selling Price post-rate-reduction	Profiteering per unit (Incl. GST)	Qty Sold.	Total Profiteering (in ₹)
A	B	C	D=C*118%	E	F=E-D	G	H=F*G
1	Recliner	156.25	184.37	200	15.63	8400	1,31,292
2	Regular	117.18	138.27	150	11.73	98270	11,52,707
3	Exceptions	117.18	138.27	200	61.73	122087	75,36,138
		156.25	184.37	350	165.63	5330	8,82,808
Total							97,02,945

- (viii) Based on the details of outward supplies of the tickets (Services) submitted by the Respondent, it was observed that the Respondent had sold admission tickets in the State of Telangana only. However, the Respondent had an active presence in other states also.
- (ix) The allegation of profiteering by way of increasing the base prices of the tickets (Services) by not reducing the selling price 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 above*" from 28% to 18% w.e.f. 01.01.2019 appeared to be correct. From the Table 'B' above, it was quite clear that the base prices of the admission tickets were indeed increased, as a result of which the benefit of reduction in GST rate from 28% to 18% (w.e.f. 01.01.2019), was not passed on to the recipients by way of commensurate reduction in prices charged (including lower GST @ 18%). The total amount of profiteering covering the period of 01.01.2019 to 30.04.2020, was ₹ 97,02,945/-. The recipients of the services were not identifiable as no such details of the consumers had been provided.
4. The above Report dated 31.12.2020 was carefully considered by this Authority and a Notice dated 05.01.2021 was issued to the Respondent to explain why the Report dated 31.12.2020 furnished by the DGAP should not be accepted and his liability for profiteering in violation of the provisions of Section 171 should not be fixed. The Respondent was directed to file written submissions, which had been filed on 06.02.2021 wherein the Respondent had, *inter-alia* submitted:-

(i) 'Regular category' – Recliner and regular seats:-

- a. That a perusal of working of the amount of profiteering given in Table 'A' and Table 'B' of the Report dated 31.12.2020 shows that it was sub-categorized into the Regular category:- Recliner seats (Gold class) and Regular seats (Executive class), and 'Exceptions Category', which also had two sub-heads of recliner seats (Gold class) and Regular seats (Executive class). The working amount of profiteering under 'Regular Category' for the recliner and regular seats has been summarized herein below:-

Sr. No.	Category	Ticket Price before 1-1-2019	Ticket Price after 1-1-2019	Alleged profiteering per ticket	No. of tickets sold	Total profiteering
A	Recliner (Gold Class)	200	200	15.63	8400	1,31,292
B	Regular (Executive class)	150	150	11.73	98270	11,52,707
	Total Regular category				1,06,670	12,83,999

- b. That it was a fact on record that the rate of GST in respect of "*services by way of admission to of cinematographic films*" was reduced from 28% to 18% w.e.f.

01.01.2019. Looking to this reduction in rates of GST, the ticket prices for the regular category- recliner and regular seats -were revised by the Respondent from 04.02.2019 from Rs. 150/- to Rs. 138/- for regular seats and from Rs. 200/- to Rs 184/- for recliner seats. Therefore, the present dispute relates only to the period 01.01.2019 to 03.02.2019.

- c. That the calculation was of the differential amount payable in respect of tickets sold during the period 01.01.2019 to 03.02.2019 under the regular category for Regular seats (executive) and Recliner seats (Gold). Out of the alleged excess amount of Rs. 11.73 per ticket in Regular seats and Rs. 15.63 per ticket in the Recliner seats an amount of Rs. 9.94 and Rs. 13.25 respectively was on account of the basic value of tickets whereas Rs. 1.79 and Rs. 2.38 respectively pertained to the GST amount which already stood deposited to the revenue exchequer. Therefore, in any case, the amount payable came to Rs. 9,71,665/- in respect of Regular seats and Rs.87,132/- in respect of Recliner seats which could be said to be the maximum amount retained by the Respondent on the above account.

- d. That summary of the calculation of the excess amount collected was as under:

Particulars	Executive	Gold	Total
Amount collected	150.00	200.00	
Amount to be collected actually	138.27	184.27	
	11.73	15.63	
Basic Amount excess collected (per ticket)	9.94	13.25	
GST amount excess collected and deposited (per ticket)	1.79	2.38	
	11.73	15.63	
No. of tickets sold from 01.01.2019 to 03.02.2019	97,753	6,576	
Total Basic Amount excess collected	9,71,665	87,132	10,58,797
Total GST amount excess collected and deposited	1,74,977.87	15,650.88	1,90,628.75
Grand Total	11,46,642.87	1,02,782.88	12,49,425.75

- e. Given the above, the total excess amounts collected from the consumers came to Rs. 12,49,425.75/-, out of which Rs. 1,90,628.75/- was towards the amount of GST which had already been paid to the Central Govt. and the net basic amount excess collected i.e. Rs.10,58,797/- could at maximum be asked to be deposited on account of profiteering under the 'Regular Category' as against the demand of Rs. 12,83,999/- under this category.
- f. That there was also a difference in the number of tickets sold as taken in the Notice and as per the actual number given in the table above. The Respondent submitted

an annexure along with these submissions to show the actual number of tickets sold from 01.01.2019 to 30.04.2020.

- g. That 49.65% of the revenue received on the sale of tickets pertained to distributors, hence, shared by the Respondent with the distributors and the remaining 50.35% only pertained to Respondent and was retained by the Respondent. Therefore, out of the above alleged excess amount collected as per the above calculation Rs. 5,33,104.29/- only pertained to the Respondent. Copy of agreement with the distributors for such Revenue sharing arrangement was enclosed with the DGAP's Report.
- h. That the distributors' share was collected by Respondent in the capacity as agent of such distributors therefore no demand for profiteering could sustain on present the Respondent to the extent of revenue remitted to distributors.
- i. That if any demand for recovery of the profiteered amount was made on the Respondent, then the same should be made to the extent of 50.35% of such amount which pertained to Respondent's share of the revenue from the sale of such tickets.

(ii) 'Exceptions Category' – Recliner and regular seats:-

- a. The calculation of profiteering under 'Exception Category' for the recliner and the regular seats has been summarized herein below:-

Sr. No.	Category	Ticket Price before 1-1-2019	Ticket Price after 1-1-2019	Alleged profiteering per ticket	No. of tickets sold	Total profiteering
A.	Exceptions (Recliner)	200	350	165.63	1,22,087	75,36,138
B.	Exceptions (Regular)	150	200	61.73	5330	8,82,808
	Total Exceptions category				1,27,417	84,18,946

- b. That admittedly rate of GST in respect of *"services by way of admission to exhibition of cinematographic films"* was reduced from 28% to 18 % w.e.f. 01.01.2019. Accordingly, wherever any ticket prices were fixed by authorities before 01.01.2019, they were based on considering the applicable GST rate of 28%, and the same were required to be re-computed as on 01.01.2019 by applying GST @ 18% on the base prices applicable before 01.01.2019. In other words, wherever the ticket prices were fixed by the administration or any other forum after 01.01.2019 then it had an inbuilt component of GST @ 18% only,



which had been made applicable from 01.01.2019 and in such a situation, no allegation of profiteering could sustain.

- c. That under the 'Exception Category', the allegation of profiteering could sustain only where the ticket prices for 'Exception Category' were applied/sanctioned before 01.01.2019 when GST rate was 28%, and then, based on such applied/sanctioned ticket prices, the tickets were sold for shows on or after 01.01.2019 when the GST rate was reduced from 28% to 18%.
- d. That in the present case, no such situation prevails. For all the tickets sold under the 'Exception Category' for shows on or after 01.01.2019, the application/sanctions for exceptional rates were always made on or after 01.01.2019 and not earlier. Therefore, the ticket prices of Rs. 200/- for regular seats and Rs 350/- under recliner seats under the 'Exception Category' were never decided by taking GST@ of 28% because when such application was made/sanction was accorded, the applicable rate of GST was already 18%. In such circumstances, the question of profiteering did not arise at all.
- e. That in support of the above contention, the Respondent enclosed the following documents:
 - i. That copy of Order dated 20.11.2019 issued by Commissioner of Police, Licensing Authority, Cyberabad, Hyderabad issued from File No. A4/03/Cinemas/Cyb/2018-19 dated 20.11.2019 to the owner of the said property M/s Global Home and Hearth Pvt. Ltd., Ameerpet, Hyderabad in which Respondent's theatre (Shalini Shivani) was being run. The screening permission was granted by the above said permission dated 20.11 2019.
 - ii. That copy of letter no. GH&H/CP/2019-20 dated 21.11.2019 written by M/s Global Home and Hearth Pvt. Ltd., Ameerpet, Hyderabad to the Commissioner of Police, Cyberabad Commissionerate, Cyberabad, Ranga Reddy District requesting an increase the ticket price for screening in multiplex theater by the Respondent. This showed that the application for an increase in ticket prices under the exceptions category was made on 21.11.2019 i.e. when the prevailing GST rate was 18% only and therefore, it could be safely concluded that the inbuilt GST rate under the exception category was the prevailing rate of 18% and not 28%.
 - iii. That copy of the Order dated 26.11.2019 of Hon'ble High Court for the State of Telangana at Hyderabad issued in favour of the property owner granting an



interim direction permitting to run the Respondent's theatre by collecting the enhanced ticket rates as proposed in the letter dated 21.11.2019 has attached. This showed that the sanction of the Hon'ble High Court for increased ticket prices under the exception category was also on 26.11.2019 i.e. post 01.01.2019 when the GST rate was already reduced from 28% to 18%.

- f. That perusal of the above documents shows that the base prices of the pre-GST regime taken by the DGAP in the present Notice/Report under 'Exception Category' were based on just assumption and presumption. Such an artificial base prices of the pre-GST regime taken by the DGAP by assuming a GST rate of 28% were not applicable because such an exception prices did not pertain to the pre 01.01.2019 period when the GST rate was 28%. The corresponding application/sanction/fixation pertained to the post 01.01.2019 period when the GST rate was already 18% and therefore it was submitted that such rate under the exception category was decided by considering the GST rate of 18% only and therefore, the question of profiteering did not arise.
- g. That the alleged demand of profiteering to the extent of Rs. 84.18,946/- under the exception category was liable to be struck down.
- (iii) That the issue was arising out of a bonafide understanding of the law and hence penalty could not be proposed:-
- a. That the excess amount collected by the Respondent from the consumers was due to a bonafide understanding as the provisions were new and it was a settled principle of law that if any dispute was arising out of a bonafide dispute of interpretation of the provisions of law then in such circumstances, a penalty cannot be proposed. Reliance could be placed on the following case laws in this regard:
- UNIFLEX CABLES LTD vs. COMMISSIONER OF CENTRAL EXCISE, SURAT-II reported at 2011-TIOL-85-SC-CX
 - WIPTECH PERIPHERALS PVT LTD. COMMISSIONER OF C. EX., RAJKOT Reported at 2008 (232) E.L.T. 621 (Tri. - Ahmd.)
 - KOMAL STRAW BOARD & MILL BOARD INDS. vs. COMMR. OF C. EX., LUDHIANA reported at 2005 (16) E.L.T. 584 (Tri. - Del.)
 - COMMISSIONER OF CENTRAL EXCISE, CHANDIGARH vs. PILOT PRODUCTS reported at 2005 (182) E.L.T. 59 (Tri. Del.)
 - SPORTS & LEISURE APPAREL LTD. vs. COMMISSIONER OF C. EX., NOIDA

- b. That if any demand for recovery of the profiteered amount was made on the Respondent, then the same should be Rs. 5,33,104.29/- only (on the Respondent's share of the revenue from the sale of such tickets) which was admitted to be paid by the Respondent.
- c. That proposition of penalty was not sustainable.
- (iv) That there was no contravention of any provision of law, no profiteering was involved, hence, no penalty was imposable:-
- a. In the present case penalty had been proposed upon Respondent under Section 171(3A) of the CGST Act, 2017.
- b. That the proposition of penalty was based on the presumption that the ticket prices for regular seats and recliner seats under the 'Exception Category' were decided by taking GST@ of 28%. It was submitted that the submissions on merits in this regard had been made in the foregoing Paras showing that there was no profiteering involved on the part of the Respondent under the 'exception' category. Therefore, a penalty under Section 171(3A) of the CGST Act, 2017 could not be imposed on the Respondent.
- c. That the penal proceedings were, by their very nature, quasi-criminal proceedings and, therefore, unless it was established that he acted in conscious disregard of the legal provisions and with intent to enjoy some benefit which was not permitted by law to enjoy, a penalty could not be proposed on the Respondent.
- d. That the Respondent placed reliance on the following case laws in support of the fact that no penalty should be imposed upon him:
- HINDUSTAN STEEL LTD. vs. STATE OF ORISSA reported at 1978 (2) ELT (J159)
 - SUMEET INDUSTRIES LTD. vs. COMMISSIONER OF CENTRAL EXCISE, SURAT reported at 2004 (164) E.L.T. 335 (Tri. - Mumbai)
 - STEEL AUTHORITY OF INDIA LTD. vs. COMMISSIONER OF CUSTOMS, CALCUTTA reported at 2001 (136) E.L.T. 316 (Tri. - Kolkata)
- e. That though the above case laws pertained to the pre-GST regime, however, the ratio of the same applied to the present situation as well, and hence; the penalty proposed on the Respondent was liable to be dropped.
5. Copy of the above submissions dated 06.02.2021 filed by the Respondent was supplied to the DGAP for supplementary Report under Rule 133(2A) of the CGST Rules, 2017. The DGAP filed his clarifications dated 16.03.2021 on the Respondent's submissions and, inter-alia clarified:-



- a. That the profiteering had been calculated for the investigation period i.e. till April 2020 as indicated in the Notice of initiation of investigation dated 03.06.2020 based on the rates prescribed by the Government of Telangana communicated vide order no. GO. Ms. No. 54, Home (Gen A) Department, dated 26.04.2017.
- b. Section 171(1) of CGST Act, 2017 states that *"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"*. Accordingly, the Respondent at the first instance would have reduced the basic price commensurate to the reduction in the rate of tax and should have passed on the benefit to the recipients as envisaged under sub-section 1 of Section 171 of the CGST Act, 2017. However, it was observed that the Respondent had not complied with the provisions of the law discussed supra and had collected more than what was due. By doing so, the Respondent had defeated the very objective of the Anti-Profiteering provisions envisaged in Section 171 of the CGST Act 2017 which aimed to provide the benefit of rate reduction to the general public. The Respondent was not legally obliged to collect any excess GST and therefore, he had violated the provisions of sub-section 2 of Section 32 of the CGST Act, 2017 and had also acted in contravention of the provisions of Section 171(1) of the above Act as he had denied the benefit of tax reduction to his customers by charging excess GST.
- c. That the quantification of the profiteering had been calculated based on the data submitted by the Respondent and was presented as an annexure appended to the Report submitted to this authority.
- d. That from the Agreements entered into by the Respondent with the Distributors, appended to his submissions, it was observed that the exhibitor (Respondent) had to pay a fixed percentage of amounts on the net collection to the Distributor and the Distributor had not fixed the price at which the tickets were to be sold. There was no clause related to the control of the prices of the tickets to be sold. The provisions of Section 171 of the CGST, 2017 require a registered person under GST to pass on the benefit of additional ITC or reduction in the rate of tax by way of commensurate reduction in the prices of goods or services supplied by him. Hence, it was the responsibility of the Respondent to comply with the provisions of Section 171 of the CGST Act, 2017. Therefore, the submission of the Respondent was untenable.
- e. That the averment made by the Respondent at para 22(ii)(a-g) of the letter dated 06.02.2021 appeared to be untenable in as much as the Respondent could not produce the Orders of the Government of Telangana regularizing the ticket prices sold at higher rates. Further, the Hon'ble High Court of Telangana vide Common order with reference



to W.P.No.15101/2019 clubbed with other Writ Petitions dismissed the writ petitions as infructuous.

6. The Respondent vide his rejoinder dated 17.05.2021 to the above clarifications of the DGAP, submitted as under:-
- a. That it was a variable fact on record that the ticket prices were revised giving the effect to the reduction in GST rates from 04.02.2019 and therefore the dispute under this category related only to the period 01.01.2019 to 03.02.2019.
 - b. That the fact of excess collection on account of GST and its payment to the Government as submitted in para 22 (i)(c) supra was not disputed in this rejoinder and since such payment of GST had already been made to the Government, therefore, the balance excess amount as mentioned in para 22(i)(c) supra could be said to be the maximum amount retained by the Respondent which could only be asked to be paid back.
 - c. That 49.65% of the ticket value pertained to the distributor therefore, the demand for recovery of the profiteered amount in the hands of Respondent should be made maximum to the extent of 50.35% of such amount.
 - d. Representative copies of orders issued after 01.01.2019 granting permission for price increase were already enclosed with his submissions dated 06.02.2021 which demonstrated that no profiteering had been made under the 'Exception Category' because such ticket prices were permitted when the tax rate had already been reduced to 18%. Further, a few more orders along with film-wise working detail were enclosed with his submissions dated 06.02.2021.
7. The proceedings in the matter could not be completed by the Authority due to the lack of required quorum of members in the Authority during the period 29.04.2021 till 23.02.2022, and the minimum quorum was restored only w.e.f. 23.02.2022 and hence the matter was taken up for further proceedings vide Order dated 10.03.2022 and the Respondent and the Applicant No. 1 & 2 were granted a hearing in the matter on 06.04.2022 through Video Conferencing.
8. The hearing in the matter through Video Conferencing was held on 06.04.2022. It was attended by Shri Shyam Dhar Pal and Shri Keshav Malloo, Chartered Accountants for the Respondent, and Shri Venkata Kameswara Rao, Superintendent for the DGAP. During the hearing, the Respondent reiterated his earlier written submissions dated 06.02.2021 and 17.05.2021. The Respondent accepted the liability in respect of 'Regular Category' seats as mentioned in the written submissions but contested the profiteering allegation in respect of the 'Exceptional Category' movie tickets. The Respondent during the



hearing further requested time till 08.04.2022 to file his written submissions against the Report of the DGAP which have been filed by the Respondent vide his email dated 07.04.2022.

9. The Respondent vide his written submissions dated 07.04.2022 has submitted a summary of the demand of Rs. 84,18,945/- under 'Exception Category' along with details of each Hon'ble Telangana High Court Order vide which such special ticket rates were fixed. The Respondent further stated that all these special rates under the 'Exception Category' were determined after 01.01.2019 when the prevailing rate of GST was already 18% and therefore no further reduction was required to be made. The summary of the demand of Rs. 84,18,945/- under 'Exception Category' has been furnished in the below table:-

Sr. No.	Movie Name	Anti-Profiteering amount as per Department (in Rs.)	Details	Reference
1	Ala Vaikunthapuramuloo (Telugu)	24,85,354	Average Ticket Price inclusive of GST has been increased: a. From Rs. 150/- to Rs. 200/- in case of Regular (Executive Class) b. From Rs. 200/- to Rs. 350/- in the case of Recliner (Gold class)	Telangana High Court Order dated 27.03.2020
2	Darbar (Telugu)	2,84,655	Average Ticket Price inclusive of GST has been increased : a. From Rs. 150/- to Rs. 200/- in case of Regular (Executive Class) b. From Rs. 200/- to Rs. 350/- in the case of Recliner (Gold class)	Telangana High Court Order dated 27.03.2020
3	Sari Leru Neekevaru (Telugu)	16,93,027	Average Ticket Price inclusive of GST has been increased : a. From Rs. 150/- to Rs. 200/- in case of Regular (Executive Class) b. From Rs. 200/- to Rs. 350/- in the case of Recliner (Gold class)	Telangana High Court Order dated 27.03.2020
4	Saaho (Telugu)	16,90,227	Average Ticket Price inclusive of GST has been increased : a. From Rs. 150/- to Rs. 200/- in case of Regular (Executive Class) b. From Rs. 200/- to Rs. 350/- in the case of Recliner (Gold class)	Telangana High Court Order dated 27.08.2019
5	Sye raa Narasimha Reddy (Telugu)	14,60,554	Average Ticket Price inclusive of GST has been increased : a. From Rs. 150/- to Rs. 200/- in case of Regular (Executive Class) b. From Rs. 200/- to Rs. 350/- in the case of Recliner (Gold class)	Telangana High Court Order dated 19.09.2019
6	War (Hindi)	8,05,128	Average Ticket Price inclusive of GST has been increased : a. From Rs. 150/- to Rs. 200/- in case of Regular (Executive Class) b. From Rs. 200/- to Rs. 350/- in the case of Recliner (Gold class)	Telangana High Court Order dated 08.05.2019
	Total	84,18,945		

10. The Authority has carefully examined the submissions of the Respondent and also the case record placed before it. The rates of GST on "*Services by way of admission to exhibition of cinematograph films where the price of admission ticket was above one hundred rupees*" was reduced from 28% to 18% and "*Services by way of admission to exhibition of cinematograph films where the 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. The benefit of reduction in GST rates was required to be passed on to the recipients by the Respondent as per the provisions of Section 171 of the above Act.

11. The Authority needs to determine whether the benefit of reduction in the GST rate was passed on or not to the recipients as provided under Section 171 of the CGST Act, 2017 in the facts mentioned herein above. 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 ITCs 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."

12. The fact of reduction in tax rates vide Notification No. 27/2018 – Central Tax (Rate) dated 31.12.2018 from 28% to 18% is not in dispute as the same has been accepted by the Respondent. However, the Respondent has argued that the fixation of the prices of the tickets is decided by the licensing authority of the State of Telangana, and, there has not been any such reduction by him. It is also contended by him that a case of profiteering may be made in respect of the normal admission tickets, but the GST component already paid by him to the Government needs to be deducted. It was claimed by him that no case of profiteering can be made in respect of 'Exceptional Category' as no price existed on 01.01.2019 and that all subsequent fixation of prices of the tickets are with the approval of licensing Authority.



13. A bare perusal of the order dated 29.05.2017 of the Government of Telangana concerning the Respondent reveals that the Government has fixed the prices of the movie tickets at the relevant time. The Theatre owners could not have a fixed prices more than the said prices, and, they were expected to work out the proportionate base rates of tickets keeping into consideration the various cost indicating taxes. It is obvious that when the tax rates were reduced, the Respondent was required to at least maintain the same base prices of the tickets and pass on the benefit of reduced GST to the consumers. The benefit of the reduced tax rate should have been passed to the consumers in terms of Section 171(1) of the CGST Act, 2017.
14. The Respondent has accepted that at maximum liability in respect of Regular Category, may be fastened upon them, which was further sub-categorized into Recliner seats (Gold class) and Regular seats (Executive class) seats/tickets during the hearing but contested the "Exceptional Category" tickets, which too had two sub-heads of recliner seats (Gold class) and regular seats (Executive class) vide his various submissions. In this regard, it is to mention that the profiteering has been calculated for the investigation period i.e. 01.01.2019 to 30.04.2020 on the basis of the information/data provided by the Respondent and the maximum rates prescribed by the Government of Telangana communicated vide order dated 29.5.2017 to the Respondent under GO. Ms. No.54, Home (Gen A) Department, dated 26.04.2017. Further, the Hon'ble High Court of Telangana in its Common order dated 27.03.2020 in the case of W.P.No.15101/2019 clubbed with other Writ Petitions dismissed the writ petitions as infructuous. The GST department of State or Centre or DGAP or NAA were not the Respondents in the said Writ Petition.
15. The Commissioner of Police, Cyberabad, Hyderabad vide letter No. A4/03/Cinemas/Cyb/2018-19 dated 20.11.2019 has a fixed rate of admission ticket of Rs 75 per seat along with other conditions. The Respondent submitted a copy of letter no. GH&H/CP/2019-20 dated 21.11.2019 written by M/s Global Home and Hearth Pvt. Ltd., Ameerpet, Hyderabad to the Commissioner of Police, Cyberabad Commissionerate, Cyberabad, Ranga Reddy District requesting an increase in the ticket prices for screening in multiplex theater by him. The letter dated 21.11.2019 was written by the Respondent in response to the letter dated 20.11.2019 he received from the Commissioner of Police, Hyderabad fixing the said rate. In the letter dated 21.11.2019 it was intimated that *'kindly refer to your permission for screening Cinemas in 4 screens with a total capacity of 1078 people in our premises number 6-9-30, Balanagar, opposite IDPL colony, Medchal Dist. by charging Rs. 75 per person for 4 shows per day. In this connection, it is submitted that the rates approved are not enough to maintain the infrastructure, We have installed in the theatre and provide air conditioning beside other facilities. As we have to maintain the highest security system in the theatre, we have installed the latest security equipment at the entry points and employ qualified and trained personnel*



which is costing heavily. We, therefore, request you to allow us to charge ticket @ Rs. 150 per person for ordinary seats and Rs. 300 for recliners." However, no copy of reply received, if any, from the Commissioner of Police, Cyberabad Commissionerate, Cyberabad, Ranga Reddy District has been submitted by the Respondent in his submissions granting the permission to the Respondent to increase the prices for particular movies. It would appear from the documents submitted that the Respondent has filed a writ petition number 26021/2019 in the Honorable High Court of Telangana questioning the action of licensing authority in not fixing the rate of admission for his theatre as sought by his application dated 21.11.2019. The Hon'ble High Court has noted that in similar circumstances, the interim order dated 13.8.2019 has been passed in W.P. No. 17241 of 2019 and passed an interim order dated 26.11.2019 permitting the Respondent to run his theatre by collecting proposed enhanced ticket rates. However, it was made clear that the petitioner shall inform the authorities concerned as to the ticket rates which he intended to collect in respect of all classes till adjudication of the issue in question by respective committees. The petitioner was directed to pay taxes proportionate to the proposed enhanced tax rates. It is gathered from the website of the Hon'ble High Court of Telangana that the matter in the W.P. No. 17241 of 2019 is pending.

16. From the facts mentioned in the paragraph above, it would emerge that there is no dispute relating to the fact that the Respondent has increased the base prices of the admission tickets in respect of the regular category and continues to charge the cine-goers at the prevailing rates despite a reduction in the GST w.e.f. 1.1.2019 vide Notification No. 27/2018 –Central Tax (Rate) dated 31.12.2018. The Respondent in the written submissions as well as during the personal hearing has admitted the above-said liability of excess collection during the period 1.1.2019 to 30.4.2020.
17. With regard to the fixation of admission ticket rates for the 'Exception Category', it is claimed by the Respondent that no such category existed before 1.1.2019, and hence the admission ticket rates were not available for comparison post 1.1.2019. It was further claimed by the Respondent that the fixation of the ticket rates for the exception category has taken into consideration the prevalent GST rate of 18% and hence no amount of profiteering can be made out against them. To verify the above-said claim, the Authority has looked into various documents submitted by the Respondent to the DGAP. It is found that the DGAP vide Notice dated 4.6.2020 had demanded various documents and details from the Respondent during the course of the investigation, which also included a pricelist of the movie admission tickets pre-and-post 1.1.2019 and invoices for the period before 1.1.2019. However, it appears from the perusal of the records submitted along with the Investigation Report dated 31.12.2020 of the DGAP that the relevant documents or information relating to the 'Exceptional Category', at any time before 1.1.2019 was not provided to him. In absence of the said documents/information, it is not possible to verify the claim of the Respondent that no Exception category was in

existence before 1.1.2019. It is also noted here that the Respondent had submitted only two permissions dated 29.5.2017 and 20.11.2019 of the licensing authority fixing the rate of admission tickets and none of these permissions mentioned 'Exception Category'. Given the above observations and findings, the matter relating to the 'Exception Category' needs to be examined/ investigated afresh by the DGAP.

18. The Authority finds that one of the contentions of the Respondent is that 49.65% of the revenue received from the sale of tickets pertained to distributors, hence, was shared by him with the distributors and the remaining 50.35% only pertained to Respondent and was retained by him. From the Agreements entered into by the Respondent with the Distributors, it was observed that the Respondent had to pay a fixed percentage of amount on the net collection to the Distributor and the Distributor had not fixed the price at which the tickets were to be sold. There was no clause related to the freedom of fixation of the prices of the tickets to be sold, by the distributor. The provisions of Section 171 of the CGST, 2017 require a registered person under GST to pass on the benefit of additional ITC or reduction in the rate of tax by way of commensurate reduction in the prices of goods or services supplied by him. Hence, it was the responsibility of the Respondent to comply with the provisions of Section 171 of the CGST Act, 2017. Therefore, the submission of the Respondent was untenable and hence rejected.

19. The Respondent has claimed that profiteered amount determined by the DGAP also included GST and the same needs to be deducted for working out the amount. The refund of GST and its provisions are separately provided under the CGST Act and said refund has to be considered as per the said provisions.

20. The Authority finds that the Respondent has also relied upon the Order passed by the Hon'ble Supreme Court in the case of:-

- a. Uniflex Cables Ltd. vs. Commissioner of Central Excise, Surat-II reported at 2011-TIOL-85-SC-CX
- b. Wiptech Peripherals Pvt. Ltd. Commissioner of Central Excise, Rajkot Reported at 2008 (232) E.L.T. 621 (Tri. - Ahmd.)
- c. Komal2- STRAW BOARD & MILL BOARD INDS. vs. COMMR. OF C. EX., LUDHIANA reported at 2005 (16) E.L.T. 584 (Tri. - Del.)
- d. COMMISSIONER OF CENTRAL EXCISE, CHANDIGARH vs. PILOT PRODUCTS reported at 2005 (182) E.L.T. 59 (Tri. Del.)
- e. SPORTS & LEISURE APPAREL LTD. vs. COMMISSIONER OF C. EX., NOIDA reported at 2005 (180) E.L.T. 429 (Tri. Del.) for the waiver of penalty.

In this regard, it is to mention that the facts of the above cases referred by the

Respondent are related to the matters like excise duty, etc. and the facts of the case laws cited above are different from the present case. Therefore, the contention of the Respondent is not tenable and hence rejected.

21. The Respondent also submitted that no penalty ought to be imposed on the Respondent as Section 171(3) of the CGST Act could not be applied to the present case. In this regard it is to mention that vide Section 112 of the Finance Act, 2019 specific penalty provisions have been added for violation of the provisions of Section 171(1) which have come into force w.e.f. 01.01.2020, by inserting Section 171(3A). The investigation in the case covers the period from 01.01.2019 to 30.04.2020. As such, the Respondent is liable for a penalty for the profiteered amount determined for the period from 01.01.2020 to 30.04.2020.
22. Given the facts mentioned above and in the given circumstances as discussed in the earlier paragraphs, the Authority finds that the Respondent has been profiteering by way of increasing the base prices of the tickets (Services) by not reducing the selling price of the tickets (Services) commensurately in the regular category, despite the rate reduction in GST rate on "*Services by way of admission to exhibition of cinematograph films*" where the price of admission ticket was one hundred rupees or above, from 28% to 18% w.e.f. 01.01.2019. From the Table 'B' 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 28% to 18% and 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 @ 18%). The total amount of profiteering covering the period of 01.01.2019 to 30.04.2020 for the 'Regular Category' was ₹12,83,999/-.
23. This Authority based on the facts discussed above has found that the Respondent has clearly resorted to profiteering in respect of 'Regular Category' 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 an exhibition of cinematograph films where the price of admission ticket is above one hundred rupees*" from 28% to 18%" w.e.f. 01.01.2019 to 30.04.2020. On this account, the Respondent has realized an additional amount to the tune of Rs. 12,83,999/- from the recipients of 'Regular Category' which included both the profiteered amount and GST on the said profiteered amount. Thus the profiteering amount is determined as Rs. ₹ 12,83,999/- as per the provisions of Rule 133 (1) of the CGST Rules, 2017 in respect of 'Regular Category' only.



24. Given the facts mentioned above and for the reasons discussed hereinabove, the Respondent is therefore directed to reduce the prices of his tickets of regular category 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 ₹ 12,83,999/- 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. The Respondent is further directed to refund an amount of Rs. 11.73/- each to Applicant Nos. 1 & 2 along with interest to be calculated @ 18% from the date of when the said amount was collected by him from the above Applicants till the above amount is paid. Since the rest of the recipients, in this case, are not identifiable, the Respondent is directed to deposit the amount of profiteering of Rs. 6,41,988/- in the Central Consumer Welfare Fund (CWF) and Rs. 6,41,988/- in the Telangana State CWF 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 receipt of this Order failing which the same shall be recovered by the Commissioner CGST/SGST as per the provisions of the CGST/Telangana GST Act, 2017.

25. The Authority finds that the Respondent has denied the benefit of rate reduction to his customers/recipients in contravention of the provisions of Section 171(1) of the CGST Act, 2017 and resorted to profiteering and hence, committed an offence under section 171 (3A) of the CGST Act, 2017. Therefore, he is liable for the imposition of a penalty under the provisions of the above Section. Accordingly, notice be issued to him directing him to explain why the penalty under Section 171 (3A) of the above Act read with Rule 133 (3) (d) of the CGST Rules, 2017 should not be imposed on him for the profiteered amount collected from 01.01.2020 to 30.04.2020.

26. Further, the Authority 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 Authority. A Report in compliance of this Order shall be submitted to this Authority by the DGAP within a period of 4 months from the date of receipt of this Order.

27. Given the discussion and findings in paragraphs 10 to 17 above, the Authority, under the provisions of rule 133(4) of the Rules, 2017 directs the DGAP to reinvestigate the matter relating to 'Exception Category' admission tickets. Necessary information/documents should be collected from the Respondent and the respondent shall provide all relevant documents to DGAP.

28. Further, the Hon'ble Supreme Court, vide its Order dated 23.03.2020 in Suo Moto Writ Petition (C) No. 3/2020 while taking *suo moto* cognizance of the situation arising on

account of the Covid-19 pandemic, has extended the period of limitation prescribed under the general law of limitation or any other specified laws (both Central and State) including those prescribed under Rule 133(1) of the CGST Rules, 2017, as is clear from the said Order which states as follows:-

"A period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings."

Further, the Hon'ble Supreme Court, vide its subsequent Order dated 10.01.2022 has extended the period(s) of limitation till 28.02.2022 and the relevant portion of the said Order is as follows:-

"The Order dated 23.03.2020 is restored and in continuation of the subsequent Orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings."

Accordingly, this Order having been passed today falls within the limitation prescribed under Rule 133(1) of the CGST Rules, 2017.

29. A copy of this order be supplied to the Applicants and the Respondent. File of the case be consigned after completion.

S/d
(Amand Shah)
Technical Member &
Chairman

S/d
(Pramod Kumar Singh)
Technical Member


(Dinesh Meena)
NAA, Secretary

S/d
(Hitesh Shah)
Technical Member

File No. 22011/NAA/09/Miraj Cinemas/2021

Date:-22.06.2022

Copy To:-

1. M/s Miraj Entertainment Ltd .(Shalini Shivani Theatres), Besides Chaitanya puri Metro Station, Kothapet, Hyderabad, Telangana-500060.
2. Shri Santosh, Kothapet, Hyderabad at santhoshsanjay7@gmail.com and Shri Sundeep, Dilsukhnagar, Hyderabad at sandeepkumar1034@gmail.com.
3. Directorate General of Anti-Profitteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
4. The Chief Commissioner of Central Goods & Service Tax, Hyderabad Zone GST Bhavan, I.B.Stadium Road, Basheer Bagh, Hyderabad, Telangana-500 004.
5. The Commissioner of Commercial Taxes Department, C.T Complex, Nampally, Hyderabad, Telangana-500 001.
6. Guard File.