



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

Case No. 05/2023
Date of Institution 5.02.2023
Date of Order 27.07.2023

In the matter of:

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

Applicant

Versus

M/s Maheshwari Infratech Pvt Ltd., A-6, Ground Floor, Yojna Vihar, Delhi-110092

Respondent

Coram: -

Mrs. Ravneet Kaur, Chairperson,
Mrs. Sangeeta Verma, Technical Member.
Sh. Bhagwant Singh Bishnoi, Member,

ORDER

1. The present Report dated 15.02.2023, has been received from the Director General of Anti-Profiteering (DGAP) after an investigation as per the directions passed under Rule 133(5) of the Central Goods and Service Tax Rules

(CGST), 2017 vide Order No. 79/2022 dated 30.09.2022 by the National Anti-profiteering Authority (NAA) on the investigation report dated 29.10.2020 of the DGAP in the case of M/s Maheshwari Infratech Pvt Ltd. (Respondent) in respect of the projects other than the 'U-Faria'.

2. The DGAP vide his Investigation Report dated 29.10.2020 had reported that the Respondent had profiteered an amount of Rs. 24,14,761/- (excluding the benefit received by the shop buyers) while executing the 'U-Faria' project which was required to be passed on to the shop buyers.
3. The NAA vide Order No. 79/2022 dated 30.09.2022 had determined the profiteered amount as Rs. 24,78,383/- and not as Rs. 24,14,761/- during the period from 01.07.2017 to 31.03.2019 on the ground that the Respondent had not passed on benefit of Rs. 63,622/- as was reported by the DGAP and ordered the Respondent to pass on the benefit.
4. Further, vide Para 19 of the aforesaid Order, the NAA directed the DGAP in terms of Rule 133(5) of the CGST Rules, 2017, to investigate profiteering in relation to projects other than project 'U-Faria', being executed by the Respondent, if any, under the provisions of Section 171 of the CGST Act, 2017. The contents of Para 19 are reproduced below:

"19. Further, since the Respondent has profiteered in the instant project, there is every likelihood that he has profiteered in other projects executed under the same GSTIN. The Authority has reasons to believe that the Respondent may have resorted to profiteering in the other projects also and hence, it directs the DGAP under Rule 133(5) to investigate all the

other projects of the Respondent under the same GST registration which have not yet been investigated from the perspective of Section 171 of the CGST Act, 2017 and submit complete investigation report for all the Projects under this single GST Registration.”.

5. In pursuance of the above direction the DGAP vide his Report dated 13.02.2023 has inter-alia submitted the following:-
- i. That a Notice under Rule 129 of the Central Goods and Services Tax Rules, 2017 was issued on 19.10.2022, calling upon the Respondent to reply as to whether he admitted that the benefit of input tax credit had not been passed on to the customers of projects other than “U-Faria”, by way of commensurate reduction in price and if so, to suo moto determine the quantum thereof and indicate the same in their reply to the Notice as well as furnish all the supporting documents.
 - ii. The period covered by the current investigation is from 01.07.2017 to 30.09.2022.
 - iii. In response to the Notice dated 19.10.2022, the Respondent replied vide email letter dated 03.11.2022 that he had executed only one housing Project U- Faria and he was not executing any other project.
 - iv. In order to verify Respondent’s claim that he had not undertaken any project other than “U-Faria”, the details of Respondent’s projects registered with UP Real Estate Regulatory Authority (RERA) were checked online from the UP RERA website and it was observed that the Respondent has executed only U-Faria project with RERA registration

No. UPRERAPRJ3924 which has already been covered under the NAA's Order No. 79/2022 dated 30.09.2022.

- vii. Further DGAP sent a letter vide F. No. 22011/API/43/2022/2456 dated 09.11.2022 to the Commissioner of State Tax, Lucknow for ascertaining whether Respondent has executed any projects other than project "U-Faria" project. In response, the Joint Commissioner (Anti-profiteering) State Tax, Lucknow intimated vide letter dated 06.02.2023 that the Respondent was not executing any project other than the project "U-Faria".
 - viii. The DGAP concluded by stating that the Respondent has not undertaken any other construction project except project "U-Faria" which has already been investigated by DGAP and profiteering determined vide NAA Order No. 79/2022 dated 30.09.2022. Therefore, Section 171(1) of the Central Goods and Services Tax Act, 2017 requiring that "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", is not applicable in the present case.
6. The Commission has carefully considered the Report of the DGAP and the other material placed on record and finds that the DGAP, in pursuance to the Order No. 79/2022 dated 30.09.2022, has investigated the matter pertaining to the other projects executed by the Respondent in terms of Section 171 of the CGST Act, 2017 and the Rules made there under so as to determine whether there has been any profiteering by the Respondent and found that no other project has been executed by the Respondent except the project "U-Faria",

Profiteering in respect of which has already been determined by the NAA vide its order dated 30.09.2022.

7. The above fact has also been corroborated from the website of the UP RERA as well as the reply of the Commissioner State Tax UP as per the report of the DGAP.
8. In view of above facts, the Commission finds that the provisions of Section 171 of the CGST Act, 2017 are not attracted in the case of the other projects of the Respondent and therefore, the proceedings are accordingly dropped against the Respondent.
9. A copy of this order be sent to the Respondent and the DGAP free of cost. File of the case be consigned after completion.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Bhagwant Singh Bishnoi)
Member

Sd/-
(Sangeeta Verma)
Member

Certified Copy


(Jyoti Jindgar Bhanot)
Secretary, CCI

F. No. M/AP/11/JKG-oP/2023-Sectt. / 428-430

Dated: /07/2023

Copy To:-

1. M/s Maheshwari Infratech Pvt. Ltd., A-6, Ground Floor, Yojna Vihar, New Delhi-110092.

2. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
3. Guard File.