

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

Case No. 21/2018  
Date of Institution 28.09.2018  
Date of Order 24.12.2018

**In the matter of:**

1. Kerala State Screening Committee on Anti-profiteering.
2. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s. Asian Granito India Ltd., 202, Dev Arc, Opposite Iskcon  
Temple, Ahmedabad- 380 015.

Respondent

*Rz*  
*24/12*

Quorum:-

1. Sh. B. N. Sharma, Chairman
2. Sh. J. C. Chauhan, Technical Member
3. Ms. R. Bhagyadevi, Technical Member
4. Sh. Amand Shah, Technical Member

Present:-

1. Smt. A. Shainamol, Additional Commissioner, SGST, Kerala for the Applicant No. 1.
2. Sh. Anwar Ali T. P., Additional Commissioner for the Applicant No. 2.

**ORDER**

1. The present report dated 27.09.2018, has been received from the Applicant No. 2 i.e. The Directorate General of Anti-Profiteering (DGAP) after detailed investigation under Rule 129 (6) of the Central Goods & Service Tax (CGST) Rules, 2017. The brief facts of the case are that the Kerala State Screening Committee on Anti-Profiteering, vide the minutes of it's meeting held on 08.05.2018 had referred the present case to the Standing Committee on Anti-profiteering, alleging profiteering by the Respondent on the supply of "Granure Hard Nero-10 MM & Granure Hard Crema-10 MM Tiles" (HSN code 69072100), by not passing on the benefit of reduction in the rate of tax of GST w.e.f. 15.11.2017, vide Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017. In this regard, Kerala

State Screening Committee has relied on two invoices issued by the Respondent, one dated 30.08.2017 (Pre-GST rate reduction) and the other dated 28.11.2017 (Post-GST rate reduction).

2. The above application was examined by the Standing Committee on Anti-Profitteering and was further referred to the DGAP vide minutes of its meeting dated 02.07.2018 for detailed investigations under Rule 129 (1) of the CGST Rules, 2017.
3. The DGAP has stated in his Report dated 27.09.2018 that the GST rate on the products Granure Hard Nero-10 MM & Granure Hard Crema-10 MM Tiles (HSN code 69072100) was reduced from 28% to 18% w.e.f. 15.11.2017, vide Notification No. 41/2017-Central Tax (Rate), dated 14.11.2017. The DGAP has further stated that on scrutiny of the said two invoices issued by the Respondent, it was revealed that the pre & post GST rate reduction sale details and discounted base prices (excluding GST) of the said products were as follows:-

Sl. No.	Pre-revision (before 15.11.2017)			Post-revision (after 15.11.2017)			Difference in Price (in Rs.)
	Invoice No./Date	Tax Rate	Price per Box (in Rs.)	Invoice No./Date	Tax Rate	Price per Box (in Rs.)	
1.	1110/171B/GO1063 dated 30.08.2017	28%	743.95/-	1110/1716/GO2733 dated 28.11.2017	18%	743.95/-	-
2.	1110/1716/GO1063 dated 28.11.2017	28%	650.93/-	1110/1716/GO2733 dated 28.11.2017	18%	650.92/-	-0.01/-

4. The DGAP has further stated that the aforementioned supporting invoices show that the Respondent did not increase the per unit base price (excluding GST) of both the products after GST rate reduction w.e.f.

15.11.2017, which were Rs. 743.95 & Rs. 650.93 in both the periods. Thus, though the GST rate was reduced from 28% to 18% w.e.f. 15.11.2017, the absence of any upward change in the per unit base price (excluding GST) confirmed that the allegation of profiteering by the Respondent was not sustainable.

5. The above report was considered by the Authority in its meeting held on 03.10.2018 and it was decided that as there was no private applicant, The Kerala Screening Committee may be asked to appear before the Authority on 31.10.2018. Smt. A. Shainamol, Additional Commissioner, SGST, Kerala appeared on behalf of the Applicant No. 1. During the hearing she agreed to the report submitted by the DGAP.
6. We have carefully examined the DGAP's report and the documents placed on record to examine 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 recipient as provided under Section 171 of the CGST Act. From the invoices referred above, it is evident that the base prices of both the products had remained same. It is also observed from the Annexure-6 attached with the Kerala Screening Committee's report that sale price of these products was reduced from Rs. 1037.52 (pre-GST revision) to Rs. 840.68 (post-GST revision) when the GST rate on the above items was revised from 28% to 18%. Thus it is clear that the base prices have not changed and accordingly the selling prices of the products have been reduced. This fact has also not been disputed by the representative of the Applicant No. 1.
7. It is apparent from the perusal of the facts of the case that the Respondent has duly passed on the benefit of reduction in the tax rate by keeping the base price constant thus reducing the selling price of the products in

question. Therefore the anti-profiteering provisions contained in Section 171(1) of the CGST Tax Act, 2017 are not attracted.

8. Based on the above facts it is clear that the Respondent has not contravened the provisions of Section 171 of the CGST Act, 2017 and hence there is no merit in the application filed by the above Applicant and the same is accordingly dismissed.
9. A copy of this order be sent to both the Applicants and the Respondent free of cost. File of the case be consigned after completion.

Sd/-  
(B. N. Sharma)  
Chairman

Sd/-  
(J. C. Chauhan)  
Technical Member

Sd/-  
(R. Bhagyadevi)  
Technical Member

Sd/-  
(Amand Shah)  
Technical Member



Certified Copy

*B. N. Sharma*  
24/12/18

(Bhupinder Batar)  
Assistant Commissioner

F. No. 22011/NAA/82/AGL/2018 | 1188

Date: 24.12.2018

Copy To:-

1. M/s. Asian Granito India Ltd., 202, Dev Arc, Opposite Iskcon Temple, Ahmedabad- 380 015.
2. Commissioner, State GST Department, 9<sup>th</sup> Flr, Tax Tower, Killipalam, Karamana Post, Thiruvananthapuram, Kerala- 695 002.
3. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.
4. NAA Website.
5. Guard File.