

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

Case No. : 29/2019
Date of Institution : 15.02.2019
Date of Order : 06.05.2019

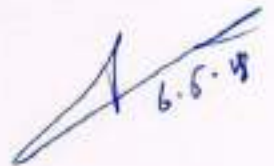
In the matter of:

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

Applicants

Versus

M/s TTK Prestige Ltd., 11th Floor, Brigade Towers, 135, Brigade Road, Bangalore, Karnataka- 560025.

 6.5.19

Respondent

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. None for the Applicant No. 1.
2. Sh. Bhupender Goel, Assistant Director (Costs) and Sh. Rana Ashok Rajnish, Assistant Commissioner for the Applicant No. 2.
3. Sh. K. Shankaran, Director and Sh. C. Chandramohan, General Manager for the Respondent.

ORDER

1. This Report, dated 05.12.2018, has been received by this Authority from the Director General of Anti-Profiteering (DGAP) under Rule 129 (6) of the Central Goods and Service Tax (CGST) Rules, 2017. The brief facts of the present case are that the Applicant No. 1 vide the minutes of its 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 "Glass Kit Hood Curved Black-90 Cm GHK 900CS Electric Chimney" (here-in referred to as the product) by not passing on the benefit of GST rate reduction from 28% to 18% w.e.f. 15.11.2017, vide Notification No. 41/2017-

Central Tax (Rate) dated 14.11.2017. Thus, it was alleged that the Respondent had indulged in profiteering in contravention of the provisions of Section 171 of CGST Act, 2017. In this regard, the Applicant No. 1 had relied on two invoices issued by the Respondent, one was dated 30.08.2017 (Pre-GST) and the second one was dated 18.12.2017 (Post-GST rate reduction w.e.f. 15.11.2017) as per the details furnished in the table given below:-

Name of the product supplied	Pre GST rate revision before 15.11.2017			Post GST rate revision after 15.11.2017			Difference (in Rs.)
	Invoice No. & Date	GST rate	Price excluding GST (in Rs.)	Invoice No. & Date	GST rate	Price excluding GST (in Rs.)	
	KitHood Curved Black-90 Cm GKH 900CS Electric Chimney(HSN-84146000)	67 dated 30.08.2017	28%	6113.79	107 dated 18.12.2017	18%	

2. The above reference was examined by the Standing Committee on Anti-Profiteering 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. A notice under Rule 129 of the CGST Rules, 2017, was issued on 05.09.2018, by the DGAP, calling upon the Respondent to reply

as to whether he admitted that he had contravened the provisions of Section 171 of the CGST Act, 2017 and that the benefit of reduction in GST rate had not been passed on to the recipients by way of commensurate reduction in price. The Respondent was also asked to suo moto determine the quantum of profiteering, if any, and indicate the same in his reply to the notice issued by the DGAP. The DGAP had also called upon the Respondent to submit certain documents, viz., GST Returns (1 & 3B), details of outward taxable supplies, etc.

4. The DGAP in his Report has stated that the Respondent vide his replies dated 25.09.2018 and 17.10.2018, stated that he had not increased the prices while migrating from VAT regime to GST. He also submitted copy of an invoice dated 17.04.2017 for sale of the product to the dealer under the erstwhile VAT regime to show that the product (2 units) was sold at a basic price of Rs. 7651.44 per piece with VAT of Rs. 1109.45 per piece, amounting to Rs. 8760.90 per piece and Rs. 17521.80 for two pieces. The Respondent further submitted that the net realization on the product was Rs. 7651.44 per piece during the VAT regime, when the applicable VAT rate was 14.5% and inspite of the fact that the incidence of tax increased from 14.5% VAT to 28% GST, he did not increase the price for the dealer. The Respondent further stated that he had run a sales promotion scheme called "Ponnona Mahotsavam" to commemorate the celebration of Onam festival during the period 10.08.2017 to 31.10.2017 and during this period, the consumer was offered products at reduced prices and the product was available to end

consumer at Rs. 8995/- per piece. In order to supply the product to the end consumer at the reduced price, the dealer was accordingly billed by the Respondent at lower than normal basic price (Rs. 7651.44) at Rs. 6113.79 with applicable GST. The Respondent also stated that the sale made on 18.12.2017 was after the "Ponnona Mahotsavam" (from 10.08.2017 to 31.10.2017) and hence, it was not eligible for the concession under the sales promotion scheme. Accordingly, the product was sold at the basic price of Rs. 7369.20, which was still lower than the normal basic price of Rs. 7651.44 as has been shown in the table below:

Particulars	VAT period	10.08.2017	18.12.2017
MRP (Rs.)	15,495.00	15,495.00	14,995.00
Sale price to end consumer (Rs.)	10,070.00	8,995.00	9,995.00
Dealer Price factor (%)	.87	.87	.87
Sale price to dealer (Rs.)	8,760.90	7,825.65	8,695.65
Tax rate (%)	14.5%	28%	18%
Respondent's realization (Rs.)	7,651.44	6,113.79	7,369.20

5. The Report also submitted that the Respondent had further clarified that the effective tax rate prior to GST in the VAT period was close to 18% and post 15.11.2017, the GST rate was 18% and he had maintained the original price of the product when migrating from

VAT to GST, i.e. when tax rate was increased from 17.5 % to 28 %, hence there was no need for revision in the price when the tax rate had decreased from 28% to 18%, given that the effective tax rate during the VAT period was around 18% and the current GST rate was also 18%. The same is explained in the table given below:-

Particulars	June, 2017(VAT@ 14.5%)	July, 2017 (GST @ 28%)	15.11.2017 (GST @ 18%)
MRP(Rs.)	15,495.00	15,495.00	14,995.00
VAT(%)	14.50%	0	0
CVD(%)	3.00%	0	0
GST(%)	0	28%	18%
Effective Tax(%)	17.50%	28%	18%

6. The Report further stated that the Respondent claimed that the sale made on 30.08.2017 was at a promotional price for the Onam festival which could not be compared with an off-season price. He had further claimed that the prices mentioned in the invoices referred to in the notice were lower than the normal prices and he had not profited on account of revision in the GST rate and he on overall

A.S.

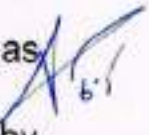
basis had suffered erosion in his net realization, to benefit the end consumer.

7. The DGAP has also submitted that the Respondent had submitted certain documents like Invoice-wise details of outward supplies of the product under investigation from 01.11.2017 to 31.08.2018 to all his Franchisee outlets in India, Price lists of the product, pre and post 15.11.2017, Sample copies of invoices pre & post 15.11.2017 and GSTR-1 and GSTR-3B returns for the period July, 2017 to August, 2018.

8. The DGAP in his Report has further stated that the Central Government on the recommendations of the GST Council had reduced the GST rate on the Air or vacuum pumps, air or other gas compressors and fans; ventilating or recycling hoods incorporating a fan, whether or not fitted with filters [other than bicycle pumps, other hand pumps and parts of air or vacuum pumps and compressors of bicycle pumps]; from 28% to 18% w.e.f. 15.11.2017, vide S.No. 317B of the Schedule III attached to the Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017. Since the product was covered in the aforesaid notification, the Respondent was required to sell the above goods on the base prices which were being charged by him before 15.11.2017 and levy GST @18% so that the benefit of reduction in the rate of tax could be passed on to his customers.

9. The DGAP has also intimated that before enquiring into the allegation of profiteering, it was important to examine Section 171 of

CGST Act, 2017 which governed the anti-profiteering provisions under GST. Section 171(1) CGST Act, 2017 reads 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 abundantly clear that in the event of a benefit of input tax credit or reduction in rate of tax, there must be a commensurate reduction in the prices of the goods or services. Such reduction can only be in absolute terms, such that the final price payable by a consumer must get reduced commensurate with the reduction in the tax rate. The DGAP had further stated that this was the legally prescribed mechanism for passing on the benefit of input tax credit or reduction in rate of tax to the consumers under the GST regime.

10. The DGAP has also submitted that in terms of Section 171 of the CGST Act, 2017 and on perusal of the invoices it is clear that the Respondent had increased the base price of the product from Rs. 6113.79 to Rs. 7369.20/, when the rate of tax was reduced from 28% to 18% and on the basis of aforesaid pre and post-reduction GST rates and the details of outward taxable supplies (other than zero rated, nil rated and exempted supplies) of the product during the period 15.11.2017 to 31.08.2018, as furnished by the Respondent, the amount of net higher sale realization due to increase in the base price of the goods, despite the reduction in the GST rate from 28% to 18% the profiteered amount came to Rs. 9,75,078/-. The DGAP has  further submitted that this profiteered amount had been arrived at by

comparing the average basic price of the product (Rs. 6,506/-) during the period 01.11.2017 to 14.11.2017, with the actual basic prices of the product during the period 15.11.2017 to 31.08.2018.

11. The above Report, received on 06.12.2018, was considered by the Authority in its meeting held on 11.12.2018 and it was decided to hear the Applicant and the Respondent on 03.01.2019. Since, another case of the Respondent was being heard and was pending before the Authority, the Authority decided to hear the Applicant and the Respondent for both the cases on the same day. Accordingly, personal hearings was accorded to the Applicant and Respondent on 05.02.2019 and on 14.02.2019, wherein no one appeared on behalf of the Applicant No. 1, Applicant No. 2 was represented by Sh. Bhupender Goel, Assistant Director (Costs), Rana Ashok Rajnish, Assistant Commissioner and the Respondent was represented by Sh. K. Shankaran, Director, Sh. C. Chandramohan, General Manager for the hearing.

12. During the hearing, the Respondent stated that at the time of implementation of GST i.e. w.e.f. 01.07.2017, the GST rate was increased from 17.5% (VAT regime) to 28%, but he did not increase the base prices of the product at that time. He also stated that the DGAP had relied on two invoices 30.08.2017 and 18.12.2017 in his Report and these invoices could not be compared since from 10.08.2017 to 31.10.2017, promotional festive discount on account of "Onam" festival was given on the product.



13. The Respondent has filed his written submissions dated 05.02.2019 wherein he stated that the normal basic price of the product during the pre GST period was Rs. 7651.44 as was evident in the invoice dated 17.04.2017. He further submitted that the effective tax rate had remained the same i.e. at 18% both during the VAT regime and in December 2017 (GST regime) for the impugned product. He further added that on migration to GST from VAT, despite that the GST rate for the product had increased to 28% from the existing effective rate (at the time of migration) being around 18%, he continued to maintain the same Dealer price (inclusive of taxes) by giving an additional discount on the basic price which was a cost to him, resulting in loss on his existing sales. He further added that granting of additional discount was done in the anticipation that the government might soon reduce the GST rates post implementation of GST and also because the Respondent felt it might not be prudent to disturb the pricing (inclusive of Taxes) being charged from the dealers and chose to bear the burden of additional discount during the intervening period. The Respondent also submitted that in the normal course of business sale promotion activities were under taken to increase sales by offering the product at special discounted price during the definite scheme periods and these special discounted prices were applicable for specific periods and were widely advertised before the special promotion scheme was launched. In the instant case, he had launched "Ponnona Mahotsavam" sales promotion scheme to commemorate the celebration of Onam festival, when the product was offered at a specially discounted basic price of Rs. 6.5

6113.79 with applicable GST. He also added that the period of the said sale Promotion scheme was from 10.08.2017 to 31.10.2017, after which the special discounted price was not available. The Respondent also submitted that the second invoice dated 18.12.2017, did not qualify for the special discounted price available under the special promotion scheme, since the sale was made after the expiry of the said scheme which ended on 31st Oct 2017 and hence the basic price charged by the Respondent was Rs. 7369.20 with applicable GST @18%.

14. The Respondent further added that on the other hand he had provided additional discount on the basic price of the product and applied the GST rate of 28% to the discounted basic price, in order to retain the dealer price (inclusive of taxes) at the same level as was prevalent prior to GST and absorbed this discount as a cost to his own account. The Respondent further stated that the DGAP's Report has erroneously compared the special discounted sale promotion price of Rs. 6113.79 billed in invoice dated 30.08.2017, available only during the scheme period (10.08.2017 to 31.10.2017) with the price of Rs. 7369.20 charged on 18.12.2017 (in the non-festive season/ non scheme period), which had nothing to do with the change in the GST rates and was purely occasioned by withdrawal of the additional discount, thereby coming to an erroneous conclusion of profiteering, which was not sustainable. The Respondent also submitted that not offering of special discounted price (which is nothing but an additional discount reduction from his profit margin) post the scheme period did

not amount to profiteering. He further cited the order issued by this Authority in the case of Kerala State Screening Committee on Anti-Profitteering, and another vs. Asian Paints Ltd, on 27.12.2018, wherein the Authority vide Para 7 & 8 of the order, had appreciated that reduction in discounts offered did not amount to profiteering.

15. The Respondent further submitted that he had always been law abiding and had not engaged in profiteering and that the penal provisions prescribed under section 122, 123, 124, 125, 126 & 127 of the CGST Act, 2017 read with Rules 21 and Rule 133 of the CGST Rules 2017 would not be applicable in the present case, since there was no profiteering. He also submitted that even assuming that there had been profiteering, though not admitted, the basis adopted for computation of the profiteering element in the DGAP's Report was flawed resulting in computation of erroneous profiteering. He also stated that the DGAP's Report had adopted an average base price of Rs. 6,506/- for determining the profiteered amount and this average base price was arrived at only on the limited sales data from 1st November to 14th Nov. 2017. He has also claimed that such a base price was seriously flawed because in order to retain the dealer price (inclusive of taxes) under GST at the same level as that prior to GST period (VAT regime), he had given an additional discount over the basic price charged under the Pre GST regime (during VAT period). He further submitted that arriving at an average base price based on discounted basic price for the period 01.11.2017 to 14.11.2017 and comparing it with the actual sale data and arriving at alleged

profiteering amount, was erroneous and was against all cannons of law and principles of equity.

16. The Respondent has also filed additional written submissions on 14.02.2019 wherein he stated that the Anti-profiteering provision provided that the benefit of any reduction in the rate of GST should be passed on to the consumer and the seller was obligated to give the benefit to the consumer commensurate with the reduction in the rate of GST. He further stated that the 'reference point' was not stipulated in this provision but following principles of natural justice and equity the 'reference point' could not be arbitrarily determined to arrive at the conclusion of 'profiteering'. The corollary in the reverse situation was that, in the event of any increase in the rate of GST, the Seller though not obligated, was entitled to increase the prices to the Consumer to neutralize the additional burden of tax imposed on the product. He further added that in the present case, there were four events in quick succession:

- a. **Prior to 1.7.2017:** The product carried VAT of 14.5%.
- b. **1.7.2017:** GST was levied at 28%, with a huge hike in the rate of tax
- c. **August 10, 2017 to 31.10.2017:** The Company had launched special schemes for the festive period of Onam.
- d. **15.11.2017:** GST on the product was reduced from 28% to 18% w.e.f. 15.11.2017.

Thus, a Seller was entitled to formally increase the price of the product commensurate with the increase in the rate of tax and the

Seller could choose not to increase the price in order to ensure that the end consumer was not hurt in the near future pending settling down of the market under the new GST regime. He further submitted that to retain the same pre-GST price (inclusive of taxes) to the consumer on migrating to GST, he had only two options namely:

- (i) Increase the price to give effect to the higher incidence of tax and reduce such increase from the basic price (basic price, which is continued from the VAT regime), thereby retaining the same pricing inclusive of taxes on migrating to GST.
- (ii) Increase the price to give effect to the higher incidence of tax and reduce such increase separately as a discount from the basic price (basic price, which is continued from the VAT regime) thereby retaining the same price inclusive of taxes on migrating to GST.

17. He also submitted that in the option (a) above, the basic price under the GST regime appeared as a reduced figure over the basic price in the VAT regime, whereas under option (b), the basic price on migrating to GST would be identical to that under VAT regime, with the discount being shown separately. Thus, it could be seen that the basic price of the product as prevalent during the VAT regime had remained the basic price on migrating to GST and the discount offered by the Respondent on migrating to GST was netted off from the basic value of the product. He further added that if option (b) had been shown to show the discount separately, it would have become apparent that the basic price on migrating to GST was the same as

during VAT regime. He further stated that the undisputed fact in both the cases was that a discount had been offered on the product to retain the price inclusive of taxes at the same level and merely because the referral basic price was not apparent from the invoice generated under GST in the form detailed at option (a) above (where discount was netted in the basic price itself and not shown separately), the referral basic price could not be determined arbitrarily. He also submitted that the referral basic price on migrating to GST could be established to be the basic price as prevalent in the VAT regime by the following method:-

Particulars	Under VAT(RS.)	Under GST(RS.)
BASIC PRICE	7651.44	7651.44
Higher Incidence of tax passed on as discount		806.99
Net Basic Price	7651.44	6844.45
Vat @14.5%	1109.46	
GST @28%	-	1916.45
Price to Dealer	8760.90	8760.90
MRP	15,495	15,495

He thus submitted that reference basic price to be considered in the impugned case should be the basic price under VAT and had he increased the MRP commensurate with the higher rate of tax and offered such increase as additional discount, the consumer would have paid the same price. The Respondent further explained different

MRP during pre-GST and post-GST scenarios as has been shown in the table given below:-

Particulars	Pre GST - Reference base - Actual VAT @ 14.5%	Warranted Revision @ 28% GST	Warranted Revision @ 18% GST	Actual @ GST 18%
	14.50%	28%	18%	18%
Respondent Basic (Rs.)	7,651.44	7,651.44	7,651.44	7,651.44
Discount (Rs.)				282.24
TTK Basic (Rs.)				7,369.20
TAX (Rs.)	1,109.46	2,142.40	1,377.26	1,326.46
DEALER PRICE (Rs.)	8,760.90	9,793.84	9,028.70	8,695.66
DEALER MARGIN @ 13% (Rs.)	1,309.10	1,463.00	1,349.12	1,299.34
CONSUMER PRICE (Rs.)	10,070.00	11,256.84	10,377.82	9,995.00
CONSUMER DISCOUNT (Rs.)	5,425.00	6,062.00	5,588.05	5,000.00
MRP (Rs.)	15,495.00	17,318.84	15,965.87	14,995.00

18. The Respondent has also filed his written submissions vide email dated 15.02.2019 stating that he had priced his products with due benefit to the end consumer taking the Reference Point as at the start of GST regime. However, the form in which he had raised the invoice and the Reference Date just prior to 15.11.2017 adopted by the

DGAP has resulted in a contrary view by the DGAP, resulting in arriving at a sum of Rs. 9,75,078/- being loss of benefit to the end Consumer. He has further stated that notwithstanding the differential interpretation, as he had confirmed during the hearing that he was ready to pay the profiteered amount of Rs. 9,75,078/- in the Consumer Welfare Fund, 50% of the above amount of Rs. 4,87,539/- was being paid to the Central Fund. He also stated that the balance 50% amount of Rs. 4,87,539/- was required to be paid to the several states as per the allocation table given by the DGAP and he was taking steps to get the bank details & addresses and would send the amount to the respective State Governments as early as possible and he will give the confirmation Report to the Authority with proof of the same.

19. The DGAP vide his rejoinder dated 15.02.2019 has stated that vide Notification No. 41/2017- Central Tax (Rate) dated 14.11.2017, the rate of tax was reduced from 28% to 18% w.e.f. 15.11.2017 and it was clear that the Respondent had increased the base price of the product, therefore, the commensurate benefit of GST rate reduction could have been passed on to the recipients. The DGAP also stated that the Pre-GST average basic price has been arrived at on the basis of the products sold during the period from 01.11.2017 to 14.11.2017. He further stated that the discounted prices during Onam festival had not been considered to arrive at the Pre-GST average basic price in the Report. He has also added that the average of pre-rate reduction prices had been taken as benchmark for comparison.

with the actual invoice prices post rate reduction and the transition from VAT to GST was not involved in the present case. The DGAP also submitted that in the case of M/s Asian Paints also, the discounted basic price in the pre-GST and post-GST periods had been considered in the DGAP's Report and the negligible difference of Rs. 4/- per unit had been ignored.

20. We have carefully considered the material placed before us and it has been revealed that the Central Govt. vide Notification No. 41/2017- Central Tax (Rate) dated 14.11.2017 had reduced the rate of GST from 28% to 18% in respect of the above product with effect from 15.11.2017, the benefit of which was required to be passed on to the recipients by the Respondent as per the provisions of Section 171 of the CGST Act, 2017. The Respondent's submissions that the price of the product was not increased at the time of introduction of GST when the rate of tax was increased to 28% and hence the question of reducing the prices when the rate of tax was decreased from 28% to 18% does not arise is legally not sustainable in as much as Section 171 of the CGST Act, 2017 is very clear that the benefit of reduction in tax has to be necessarily passed on to the recipient by commensurately reducing the prices. Secondly the argument that the pre GST prices and the post reduction prices should have been compared will also not hold good as the DGAP has rightly taken into consideration the prices before the rate reduction and the prices after the reduction of tax rates to analyse and estimate the extent of benefit passed on to the recipient.

21. The DGAP in his additional report dated 15.02.2019 has clearly stated that the average base price for the pre GST rate reduction period was taken from the transactions made during the period 01.11.2017 to 14.11.2017. The discounted prices during Onam festival for the period from August 2017 to October 2017 as claimed by the Respondent have not been considered for arriving at the pre GST rate reduction base price. Hence, the Annexure-10 of the DGAP Report which alleges profiteering amount of Rs. 9,75,078/- has been correctly prepared. The Respondent has also vide his letter dated 15.02.2019 confirmed to deposit the profiteered amount of Rs. 9,75,078/- along with interest @ 18% into the Consumer Welfare Fund as the recipients were not identifiable. Accordingly the Respondent is directed to pay the above amount along with interest @18% as per Rule 133 (3) (c) of the CGST Rules, 2017 in the Consumer Welfare Fund of the Central and concerned State Governments as per the provisions of the above Rule in the ratio of 50:50 along with interest @ 18% till the same is deposited within a period of 3 months. The concerned state CGST and SGST Commissionerates are directed to verify and confirm the deposit of Rs.4,89,539 along with interest @ 18% into the Central CWF and get the balance amount of profiteering of Rs. 4,87,539 (Rupees Four Lakh Eighty Seven Thousand Five Hundred Thirty Nine Only) along with interest @ 18% deposited in the respective States Consumer Welfare Fund as per the provisions of Rule 133 (3) (c) of the CGST Rules, 2017 as has been shown in the Table given below under the overall supervision of DGAP:

A 25/19

Consumer Welfare fund				
Sl. No	State Code	State	Amount (Rs.)	50% of the amount (Rs.)
1	01	Jammu & Kashmir	5,042.00	2,521.00
2	03	Punjab	5,317.00	2,658.50
3	05	Uttarakhand	376.00	188.00
4	06	Haryana	2,661.00	1,330.50
5	08	Rajasthan	12,147.00	6,073.50
6	09	Uttar Pradesh	2,446.00	1,223.00
7	10	Bihar	22,138.00	11,069.00
8	14	Manipur	2,011.00	1,005.50
9	15	Mizoram	3,352.00	1,676.00
10	19	West Bengal	19,586.00	9,793.00
11	21	Orissa	17,159.00	8,579.50
12	22	Chhattisgarh	7,275.00	3,637.50
13	23	Madhya Pradesh	5,044.00	2,522.00
14	24	Gujarat	13,668.00	6,834.00
15	27	Maharashtra	49,272.00	24,636.00
16	29	Karnataka	78,446.00	39,223.00
17	30	Goa	10,573.00	5,286.50
18	32	Kerala	2,13,157.00	1,06,578.50
19	33	Tamil Nadu	2,54,979.00	1,27,489.50
20	34	Puducherry	24,172.00	12,086.00

21	36	Telangana	70,899.00	35,449.50
22	37	Andhra Pradesh	1,55,358.00	77,679.00
		Total	9,75,078.00	4,87,539.00
50% - payable to Central Fund (Rs.)			4,87,539.00	
50% payable to State Fund (Rs.)			4,87,539.00	

22. The above amount shall be deposited within a period of 3 months by the Respondent, from the date of receipt of this order, failing which the same shall be recovered by the corresponding field formations of Central and State GST Authorities, as per the provisions of the CGST/SGST Act, 2017. The Authority as per the provisions of Rule 136 of the CGST Rules, 2017 also directs the respective Commissioners of CGST/SGST to monitor the implementation of this order. The Respondent is further directed to reduce the price of the product as per the provisions of Rule 133 (3) (a) of the CGST Rules, 2017, by making commensurate reduction in the prices, keeping in view the reduction in the rate of tax so that the benefit is passed on to the recipients. The Respondent vide email dated 09.04.2019 had also confirmed that 50% of the profiteered amount has been deposited in the CWF, therefore, the balance amount be deposited by him in the respective CWFs of the States.

23. It is also established from the above facts that the Respondent had issued incorrect invoices while selling all the above product to his customers as he had not correctly shown the basic price which he should have legally charged from them. The Respondent had also

compelled them to pay additional GST on the increased price through the incorrect tax invoices which would have otherwise resulted in further benefit to the customers which he had failed to pass on. It is also established from the record that the Respondent has deliberately and consciously acted in contravention of the provisions of the CGST Act, 2017 by issuing incorrect invoices which is an offence under Section 122 (1) (i) of the above Act. Hence, he is liable for imposition of penalty under the above Section read with Rule 133 (3) (d) of the CGST Rules, 2017. In the interest of natural justice, notice may be issued to the Respondent to show cause as to why penalty should not be imposed on him.

24. A copy of this order be sent to the Applicants and the Respondent free of cost. File of the case be consigned after completion.



Certified copy



(A.K. Goel)
Secretary, NAA

Sd/-
(B. N. Sharma)
Chairman

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

Sd/-
(R. Bhagyadevi)
Technical Member

Sd/-
(Amand Shah)
Technical Member
Dated: 06.05.2019

File No. 22011/NAA/121/TTK/2018 | 2984 - 3025

Copy to:-

1. M/s TTK Prestige Ltd., 11th Floor, Brigade Towers, 135, Brigade Road, Bangalore, Karnataka- 560025.
2. Director General Anti-Profitteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

3. Commissioner, State GST department, 9th floor, Tax Tower, Killipalam, Karmana, Post, Thiruvananthpuram, Kerala-695002.
4. Commissioner, GST, C.R. Building, I.S. Press Road, Ernakulam, Cochin, Kerala-682018.
5. Commissioner of Commercial Taxes, Office of the Chief Commissioner of State Tax, Eedupugallu, Krishna District, Andhra Pradesh.
6. Commissioner of Commercial Taxes, Additional Commissioner (GST), Commercial Tax Department, Ground Floor, Vikas Bhawan, Baily Road, Patna – 800 001
7. Commissioner of Commercial Taxes, Commercial Tax, SGST Department, Behind Raj Bhawan, Civil Lines, Raipur - 492 001
8. Commissioner of Commercial Taxes, Office of Commissioner of Commercial Tax, Vikrikar Bhavan, Old High Court Building, Panji, Goa- 403 001
9. Commissioner of Commercial Taxes, C-5, Rajya Kar Bhavan, Near Times of India, Ashram Road, Ahmedabad.
10. Commissioner of Commercial Taxes, Vanijya Bhavan, Plot No. 1-3, Sector-5, Panchkula. PIN - 134 151.
11. Commissioner of Commercial Taxes, Excise & Taxation Complex, Rail Head Jammu.
12. Commissioner of Commercial Taxes, Vanijya Therige Karyalaya, 1st Main Road, Gandhinagar, Bangalore- 560 009
13. Commissioner of Commercial Taxes, Moti Bangla Compound, M.G. Road, Indore
14. Commissioner of Commercial Taxes, GST Bhavan, Mazgaon, Mumbai- 400 010
15. Commissioner of Commercial Taxes, Department of Taxes, Old Guwahati High Court Complex, North AOC, Imphal West, Manipur - 795 001.
16. Commissioner of Commercial Taxes, Office of the Commissioner of State Tax, New Secretariat Complex, Aizawl – 796005.
17. Commissioner of Commercial Taxes, Office of the Commissioner of State Tax, Banijyakar Bhawan, Old Secretariat Compound, Cuttack - 753 001.
18. Commissioner of Commercial Taxes, Office of Excise and Taxation Commissioner, Bhupindra Road, Patiala- 147 001
19. Commissioner of Commercial Taxes, Kar Bhavan, Ambedkar Circle, Jaipur, Rajasthan - 302 005.
20. Commissioner of Commercial Taxes, PAPJM Building, Greams Road, Chennai – 600 006.
21. Commissioner of Commercial Taxes, O/o the Commissioner of State Tax, CT Complex, Nampally Station Road, Hyderabad - 500 001.

22. Commissioner of Commercial Taxes, Office of the Commissioner, Commercial Tax, U.P. Commercial Tax Head Office Vibhuti Khand, Gomti Nagar, Lucknow (U.P)
23. Commissioner of Commercial Taxes, State Tax Department, Head Office Uttarakhand, Ring Road, Near Pulia No. 6, Natthanpur, Dehradun
24. Commissioner of Commercial Taxes, 14, Beliaghata Road, Kolkata - 700 015.
25. Commissioner of Commercial Taxes, First Floor, 100 feet Road, Ellapillaichavady, Pondicherry - 605 005.
26. Commissioner of taxation, Additional Townhall Building, Sector 17-C U.T, 235, Jan Marg, Bridge Market, 17C, Chandigarh, 160017
27. Chief Commissioner of Central Goods & Services Tax, Bhopal Zone 48, Administrative Area, Arera Hills, Hoshangabad Road, Bhopal M.P. 462 011.
28. Chief Commissioner of Central Goods & Services Tax, C.R.Building Rajaswa Vihar, Bhubaneshwar 751007.
29. Chief Commissioner of Central Goods & Services Tax, Chandigarh Zone C.R. Building, Plot No.19A, Sector 17C, Chandigarh 160017.
30. Chief Commissioner of Central Goods & Services Tax, Cochin Zone, C.R.Building, I.S.Press Road, Ernakulam Cochn 682018
31. Chief Commissioner of Central Goods & Services Tax, Hyderabad Zone GST Bhavan, L.B.Stadium Road, Basheer Bagh, Hyderabad 500 004
32. Chief Commissioner of Central Goods & Services Tax, Jaipur Zone, New Central Revenue Building, Statue Circle, Cscheme Jaipur 302 005
33. Chief Commissioner of Central Goods & Services Tax, Meerut Zone Opp. CCS University, Mangal Pandey Nagar, Meerut 250004
34. Chief Commissioner of Central Goods & Services Tax, Mumbai Zone GST Building ,115 M.K. Road, Opp. Churchgate Station, Mumbai 400020
35. Chief Commissioner of Central Goods & Services Tax,, Telangkhedi Road, Civil Lines, Nagpur 440001
36. Chief Commissioner of Central Goods & Services Tax, Panchkula SCO 407408, Sector 8 Panchkula
37. Chief Commissioner of Central Goods & Services Tax, Pune Zone GST Bhawan Ice House, 41A, Sasoon Road, Opp. Wadia College, Pune 411001
38. Chief Commissioner of Central Goods & Services Tax, (Ranchi Zone) 1st Floor, C.R. Building, (ANNEX) Veerchand Patel Path Patna, 800001
39. Chief Commissioner of Central Goods & Services Tax, Vadodara Zone 2nd Floor, Central Excise Building, Race Course Circle, Vadodara 390 007
40. Chief Commissioner of Central Goods & Services Tax, Vishakhapatnam Zone GST Bhavan, Port Area, Vishakhapatnam 530 035.
41. NAA Website/Guard File.

