

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

Case No. : 36/2019
Date of Institution : 01.04.2019
Date of Order : 10.06.2019

In the matter of:

1. Park view Ananda Resident Welfare Association, Sector-81, Gurugram, 122004, Haryana.
2. Director General 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

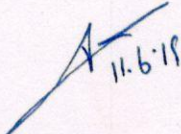
Versus

M/s Bestech India Ltd., Plot 51, Bhagwan Mahaveer Marg, Sector 44, Gurugram, Haryana 122002, India.

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


11.6.19

Present:-

1. None for the Applicant No. 1.
2. Rana Ashok Rajneesh, Assistant Commissioner, DG Anti-Profiteering for the Applicant No. 2.

Order

1. The present report dated 29.03.2019 has been received from the Directorate General of Anti-Profiteering (DGAP) after detailed investigation under Rule 129 (6) of the Central Goods & Services Tax (CGST) Rules, 2017. The brief facts of the case are that an Application was filed by the Applicant No. 1 under Rule 128 of the Central Goods and Service Tax (CGST) Rules, 2017 against the Respondent alleging that the Respondent had charged extra VAT, EDC (External Development Charges) and IDC (Internal Development Charges) .
2. The above application was examined by the Standing Committee on Anti-Profiteering and was referred to the DGAP vide minutes of its meeting dated 27.12.2018 for detailed investigations under Rule 129 (1) of the CGST Rules, 2017.
3. The DGAP has stated in his report dated 29.03.2018 that in the application dated 22.09.2018, there was no allegation by the Applicant No. 1 that the benefit of reduction in the tax rate or additional input tax credit had not been passed by the Respondent.

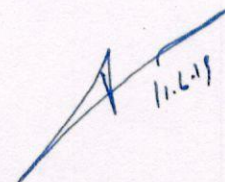
The only allegation was that the Respondent had charged extra VAT, EDC and IDC during the pre- GST period, i.e. in the period before 01.07.2017.

4. The DGAP has reported that when the Applicant No. 1 was asked to provide more details, he vide his e-mail dated 28.03.2019 had submitted that the matter related to the pre-GST period. The DGAP has also reported that the website of the Respondent showed that the aforesaid project was completed in August, 2015, well before the implementation of the GST w.e.f. 01.07.2017.
5. The DGAP has concluded in his reporting that as the project was completed in the pre-GST period, no benefit of reduction in the tax rate or additional input tax credit was required to be passed on and hence, the case did not attract the provisions of Section 171(1) of the Central Goods and Service Tax, 2017.
6. The above Report was considered by the Authority in its sitting held on 03.04.2019 and it was decided to accord hearing to the Applicant No. 1 despite the fact that the profiteered amount calculated by the DGAP was NIL, so as to ensure that the facts relied upon by the above Applicant has been carefully considered by the DGAP. The Applicant No. 1 was given two opportunities to defend his complaint, on 22.04.2019 and 08.05.2019, but no one appeared on his behalf on the above dates. Further, the Postal Authorities have informed this Authority that the Applicant No. 1 had in fact refused to accept the Notice for hearing.

7. We have carefully considered the Report of the DGAP and the documents placed on record and find that the only issue that needs to be decided by this Authority is as to whether the provisions of section 171 of the CGST Act, 2017 are attracted in this case or not.
8. Perusal of Section 171 of the CGST Act shows that it provides as under:-

(1). "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."

9. It is clear to us from the perusal of the facts of the case and the evidence on record that the complaint of the Applicant No. 1 was related to the pre-GST period and that the specific charges on the basis of which the said complaint arose pertained to VAT, EDC and IDC. Since the project has been completed before coming into force of the GST w.e.f 01.07.2017, anti-profiteering provisions contained in Section 171 (1) of the CGST Act, 2017 are not attracted. As such, we do not find any merit in the application filed by the Applicants and accordingly the same is dismissed.

A handwritten signature in blue ink, followed by the date "11.6.19".

10. 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.

sdf-

(B. N. Sharma)
Chairman

sdf-

(J. C. Chauhan)
Technical Member

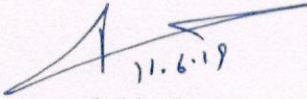
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(R. Bhagyadevi)
Technical Member

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(Amand Shah)
Technical Member

Certified Copy


11.6.19

A.K. Goel
(Secretary, NAA)



F. No. 22011/NAA/25/bestech/2019

Date: 10.06.2019

Copy To:-

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3. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, ^{2nd} Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.
4. NAA Website.
5. Guard File.