

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

Order No. 38/2019
Date of Institution 16.04.2019
Date of Order 14.06.2019

In the matter of:

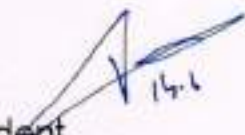
1. Shri Deepak Kumar Khurana, TMQ No. 338/1, 6th Camp Air Force Station, Jalahalli, East, Bangalore-560014.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

Versus

M/s Sattva Developers Pvt Ltd, 4th Floor, Salarpuria Windsor, # 3,
Ulssor Road, Bangalore-560042, Karnataka.

Respondent



Quorum:-

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

Present:-

None for the Applicant No. 1.
Sh. Bhupinder Goel, Assistant Director (Costs), for the Applicant No. 2.
Sh. Rangaiah, Sr. General Manager (Finance) and Sh. Badrinath, C.A.
for the Respondent.

ORDER

1. The present report dated 28.02.2019 and subsequent reports dated 03.04.2019, 08.04.2019 and 15.04.2019, have been received from the Applicant No. 2 i.e. The Director General of Anti-Profitteering (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 Applicant No. 1 had booked Flat No. 0702, Block-F, in the Respondent's project "Laurel Heights" situated at off Tumkur road, Bangalore and alleged that the Respondent had not passed on the benefit of Input Tax Credit (ITC) by way of commensurate reduction in the price, on introduction of GST w.e.f. 01.07.2017. The Karnataka State Screening Committee on Anti-profitteering on prima facie having satisfied itself that the Respondent had not passed on the benefit of ITC forwarded the said application with its recommendation, to the Standing Committee on Anti-

profiteering on 04.07.2018 for further action, in terms of Rule 128 of the Rules.

2. The above reference was examined by the Standing Committee on Anti-profiteering and vide its minutes dated 08.08.2018 it had forwarded the same to the DGAP for detailed investigation. The application was forwarded to the DGAP along with the payment details as is given in the Table A below:-

Table-A

(Amount in Rs.)

Particulars	Basic Sale Price		Other Charges	Service Tax	VAT	GST	Total
	Land	Other than Land					
Agreement Value (A)	14,83,750	26,70,200	4,55,182	1,41,285	1,06,808	-	48,57,225
Paid in Pre-GST era (B)	12,61,188	22,69,670	-	1,23,732	90,786	-	37,45,376
Balance to be paid Post GST (C)= (A)-(B)	2,22,562	4,00,530	4,55,182	17,553	16,022	-	11,11,849
Demanded by the Noticee (D)	2,22,562	4,00,530	4,55,182	-	-	1,40,806	12,19,080
Excess Demand: (E)= (D)-(C)							1,07,231

3. The DGAP on receipt of the application issued a notice dated 10.09.2018 to the Respondent to reply as to whether he admitted that the benefit of ITC had not been passed on to the Applicant No. 1 by way of commensurate reduction in price 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 the supporting documents. Further the Respondent was also given an opportunity to inspect the non-confidential evidences/information submitted by the above Applicant which was not availed by him. The above Applicant was also given an opportunity to inspect the non-confidential documents/reply furnished by the Respondent which was not availed by him.

 m.b

4. The DGAP on account of voluminous documents had sought extension of time for completing the investigation which was extended by this Authority vide its orders dated 27.11.2018 and 29.01.2019 in terms of Rule 129 (6) of the CGST Rules, 2017. The period of the investigation is from 01.07.2017 to 31.08.2018.

5. The DGAP in his report has stated that the Respondent had furnished the following documents:-

- (a) Copies of GSTR-1 returns for the period July, 2017 to August, 2018.
- (b) Copies of GSTR-3B returns for the period July, 2017 to August, 2018.
- (c) Copies of VAT & ST-3 returns for the period April, 2016 to June, 2017.
- (d) Copies of all demand letters issued to the Applicant No. 1.
- (e) Tax rates- pre-GST and post-GST.
- (f) Copy of Balance Sheet and cost audit report for FY 2016-17.
- (g) Copy of Electronic Credit Ledger for the period 01.07.2017 to 31.08.2018.
- (h) Details of VAT & Service Tax during the period from April, 2016 to June, 2017 and GST and ITC of GST for the period July, 2017 to August, 2018 for the project "Laurel Heights".
- (i) List of home buyers in the project "Laurel Heights".

Based on these documents filed by the Respondent the DGAP submitted that the Applicant had purchased Flat No. 0702, Block F in his project 'Laurel Heights' measuring 1027 sq. ft. at the basic sale price of Rs. 3,850/- per sq. ft. The payments made by the above Applicant along with the taxes are shown in the Table B below:-



Table - B

(Amount in Rs.)

Sl. No.	Payment Stages	Due Date	Basic		Other Charges	VAT	Service Tax	GST	Total
			Land	Other than Land					
1	At the time of Booking	10.12.2014	1,30,000	66,702	-	-	3,298	-	2,00,000
2	EMD	31.12.2014	1,66,750	4,67,338	-	-	23,105	-	6,57,193
3	On or before completion of Basement Roof	11.05.2015	1,33,538	2,40,318	-	-	11,881	-	3,85,737
4	On or before completion of 2 nd floor Roof	17.09.2015	1,18,700	2,13,616	-	-	11,963	-	3,44,279
5	On or before completion of 4 th floor Roof	23.10.2015	1,18,700	2,13,616	-	-	11,963	-	3,44,279
6	On or before completion of 6 th floor Roof	22.11.2015	1,18,700	2,13,616	-	-	11,963	-	3,44,279
7	On or before completion of 8 th floor Roof	19.12.2015	1,18,700	2,13,616	-	-	12,390	-	3,44,706
8	On or before completion of 10 th floor Roof	21.01.2016	1,18,700	2,13,616	-	-	12,390	-	3,44,706
9	On or before completion of 12 th floor Roof	16.02.2016	1,18,700	2,13,616	-	-	12,390	-	3,44,706
10	On or before completion of 14 th floor Roof	15.03.2016	1,18,700	2,13,616	-	-	12,390	-	3,44,706
11	On or Before completion of Flooring	13.03.2018	74,188	1,33,510	-	-	-	24,924	2,32,622
12	On or Before completion of Painting		74,188	1,33,510	-	-	-	24,924	2,32,622
13	On or Before completion of Possession		74,188	1,33,510	4,85,993	90,786	-	90,958	8,75,435
Total			14,83,752	26,70,200	4,85,993	90,786	1,23,733	1,40,806	49,95,270

6. The DGAP has submitted that in the present case the project was complete and the completion certificate was also received by the Respondent on 07.03.2018. It was also noticed that the Respondent had availed ITC till June 2018 only and therefore the exact amount of ITC available to the Respondent was known and based on these facts the net ITC benefit to be passed on was to be calculated taking into account the fact that the credit on the unsold flats needed to be reversed since the completion certificate was already available. Accordingly the DGAP based on the total saleable area and the total ITC availed by the Respondent and the joint developer (Land Owner) arrived at proportionate credit of Rs. 2,56,93,110/- as shown in the Table C below:-

Table - C

Particulars	Factor	Post-GST
Total Saleable Area of Flats including JDAs Share (in sq. ft)	A	4,83,055
Area Sold before completion certificate is obtained (in sq. ft)	B	4,08,613*
Area sold before completion certificate is obtained (in Percentage)	C=B/A	84.59%
Area remaining Unsold before completion certificate is obtained (in sq. ft)	D=A-B	74,442
Area remaining Unsold before completion certificate is obtained (in Percentage)	E=D/A	15.41%
ITC availed for the project post introduction of GST (July, 2017 to June, 2018) (in Rs.)	F	3,03,73,697
Proportionate ITC to be reversed (in Rs.)	G=F*E	46,80,587
Proportionate Input Tax Credit Availed post GST pertaining to sold Units (in Rs.)	H=F-G	2,56,93,110

*Area sold includes Joint Developer's share of area as sold by the Respondent and Respondent is discharging GST liability on the Joint Developer's share.

7. The DGAP in his report submitted that the Respondent prior to 01.07.2017 was eligible to avail Cenvat credit of Service Tax paid on input services and deduction of the payment made to the registered contractors and sub-contractors on which VAT @4% was being levied and he was not eligible for the benefit of Cenvat credit on Central Excise Duty paid on inputs. During the post GST period the Respondent was eligible to avail ITC benefit of GST paid on all the inputs and input service including the GST levied on the sub-contractors. Accordingly based on the documents submitted by the Respondent for the period April 2016 to August 2018 the ITC ratio to the total turnover for the project 'Laurel Heights' for the pre GST period (April 2016 to June 2017) and post GST period (July 2017 to August 2017) was arrived at by the DGAP. The report stated that the ITC ratio to the turnover during the pre GST period was 5.13% as compared to 7.79% during the post GST period as is given in the Table D below:-

Table - D

(Amount in Rs.)

Sl. No.	Particulars	April, 2016 to March, 2017	April, 2017 to June, 2017	Total (Pre-GST)	Balance Base price to be Collected as on 30.06.2017 from Existing Customers	Agreement Value of Bookings made during 01.07.2017 to 07.03.2018	Total (Post-GST)
1	CENVAT of Service Tax Paid on Input Services (A)	1,12,67,630	27,16,478	1,39,84,108	-	-	-
2	Rebate of VAT on payments to registered contractors & sub-contractors in lieu of credit (B)	45,79,070	30,71,416	76,50,487	-	-	-
3	Total CENVAT/VAT Credit Available €= (A+B)	1,58,46,700	57,87,894	2,16,34,595	-	-	-
4	Input Tax Credit of GST as per Table 'C' (D)	-	-	-	-	-	2,56,93,110
5	Total Turnover including JDs€	16,62,45,585	9,53,41,974	26,15,87,559	27,55,81,620	5,42,20,048	32,98,01,668
6	Total Saleable Area of Flats in the project (in Square Feet) (F)			4,83,055			
7	Area Sold relevant to Turnover as per Home buyers list (G)			2,99,402			
8	Relevant CENVAT/Input Tax Credit (H)= [€*(G)/(F)]			1,34,09,324			
9	Ratio of CENVAT/ Input Tax Credit to Turnover [(H)= (H)/€]			5.13%			7.79%

8. The DGAP has further submitted that the Central Government by Notification No. 11/2017- Central Tax (Rate) dated 28.06.2017 had levied 18% GST (effective rate was 12% in view of 1/3rd abatement on land value) on construction service. The DGAP based on these rates of tax and taking into consideration the ITC benefit available to the Respondent has arrived at the profiteered amount of Rs. 99,20,246/- as is given in the Table E below:-

Table- E

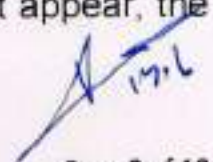
(Amount in Rs.)

Sl. No.	Particulars	Pre-GST	Post- GST
1	Period	A	01.04.2016 to 30.06.2017
2	Output tax rate on Construction (%)	B	After 01.07.2017
3	Ratio of CENVAT/ Input Tax Credit to Total Turnover as per Table - D above (%)	C	9.8 or 10
4	Increase in input tax credit availed post-GST (%)	D= 7.79% less 5.13%	12 or 18
5	Analysis of Increase in input tax credit;		5.13
6	Outstanding BSP Amt. as on 30.06.2017 to be collected post-GST from customers who made bookings in Pre-GST period	E	7.79
			-
			2.66
			21,61,86,620

7	BSP Amt. (Agreement Value) collected or to be Collected from Customers who made bookings during 01.07.2017 to 07.03.2018 (before receiving Completion Certificate)	F		5,42,20,048
8	Turnover reported for JDAs during 01.07.2017 to 07.03.2018 (before receiving OC)	G		5,93,95,000
9	Total Turnover Post-GST	$H=E+F+G$		32,98,01,668
10	GST @12% over Base Price (Customers)	$I=(E+F)*12\%$		3,24,48,800
11	GST @18% over Base Price (JDAs)	$J=(G*18\%)$		1,06,91,100
12	Total GST	$K=I+J$		4,31,39,900
13	Total Demand	$L=H+K$		37,29,41,568
14	Recalibrated Base Price (Customers)	$M=(E+F)*(1-D)$ or 97.34% of (E+F)		26,32,13,851
15	GST @12%	$N=M*12\%$		3,15,85,662
16	Recalibrated Base Price(JDAs)	$O=G*(1-D)$ or 97.34% of G		5,78,15,093
17	GST @18%	$P=O*18\%$		1,04,06,717
18	Commensurate demand price	$Q=M+N+O+P$		36,30,21,323
19	Excess Collection of Demand or Profiteering Amount	$R=L-Q$		99,20,246

9. The DGAP in his report vide Annexure-16 has enclosed the details of 232 units with individual profiteered amounts and the total profiteered amount of Rs. 80,55,955/- which includes GST @12% on the base profiteered amount of Rs. 71,92,817/-. This amount also includes Rs. 18,563/- (base amount 16,574 + GST @12%) which is the profiteered amount in respect of the above Applicant. The report also submits that based on the joint developer's turnover as given in the GST returns the profiteered amount is arrived at Rs. 18,64,290/- which includes GST @18% on the base profiteered amount of Rs. 15,79,907/- and therefore the total profiteered amount in the present case has been arrived at Rs. 99,20,246/- which includes GST @12% or 18% on the base profiteered amount of Rs. 87,72,724/-.

10. The above report was considered by the Authority in its meeting held on 05.03.2019 and it was decided that the Applicants and the Respondent be asked to appear before the Authority on 26.03.2019. During the course of the hearing the Applicant No. 1 did not appear, the



DGAP was represented by Sh. Bhupinder Goel, Assistant Director (Costs) and the Respondent was represented by Sh. Rangaiah, Senior Manager (Finance) and Sh. Badrinath, C. A.

11. The Respondent has filed his written submissions stating that he was engaged in the business of construction and sale of residential projects having his corporate office at 4th floor, Salarpuria Windsor, No. 3, Ulsoor Road, Bengaluru-560042. He has also submitted that the real estate business was market driven and the pricing of residential flats would be determined based on different parameters such as surrounding developments, facilities available like hospitals, schools, public transport, accessibility to railway station, airport and pricing of competitors etc. He has also stated the demand for homes and the supplier also placed a significant role in determining the cost of the flats.

12. The Respondent has further submitted that as a business practice his aim was to achieve an overall betterment in prices of flats which were sold over a period of 4 to 5 years from the date of launch of the project. He has further stated that the cost of construction of a flat became irrelevant in the pricing mechanism as there were factors which influenced the cost of the project. He has also claimed that his project 'Laurel Heights' was under composition scheme under the Karnataka VAT laws and was liable to Service Tax as per the Service Tax Laws. His project consisted of 434 units (total saleable area 4,83,055 sq. ft.) under the Joint Developer Agreement where he enjoyed 70.81% share and the land owner enjoyed 29.19% share. He has also stated that 73%



of the project was complete and 84% of the total units were sold. He had obtained completion certificate on 07.03.2018.

13. The Respondent has also submitted that the major and substantial portion of work was executed through registered sub-contractors and hence the direct purchase of goods and services was done by these sub-contractors, though at times he had made direct purchases of certain materials. Based on his estimated cost of the project the following details were provided:-

Cost of the Project

(Amount in crores)

Particulars	Rs. In crores	%	Incurred upto 30.06.2017	Incurred after 01.07.2017
Overall project cost	109.86		72.98	36.88
Composition:				
Sub-contractors	65.84	60%	41.12	24.72
Direct purchase of materials	30.80	28%	25.28	5.52
Services	5.72	5%	3.11	2.61
Statutory approvals	4.05	4%	3.18	0.87
Admin. cost	3.45	3%	0.29	3.16

Based on the above data the Respondent submitted that 60% of the total project cost was towards sub-contract charges and claimed that the benefit of additional credits as required under Section 171 of the CGST Act, 2017 would accrue to the sub-contractors. He has also claimed that he had negotiated with his sub-contractors and the sub-contractors had agreed to pass on the benefit of Rs. 45,86,692/- to him, the details of which were enclosed as Annexure-1 to his reply. He has further claimed that since 73% of the project was complete procurement and deployment of most of the goods and services was completed before the introduction

of GST and only installation, completion and final finishing activities were to be completed post 30.06.2017. He has also claimed that since he was under composition scheme the only tax leviable was the Service Tax which was eligible for benefit of ITC. Since most of the goods and services were purchased prior to 01.07.2017 there was no additional benefit that had accrued to him after 01.07.2017.

14. The Respondent further referring to the case of Pyramid Infratech Pvt. Ltd. which was decided by the Authority vide Order No. 7/2018 dated 18.09.2018 stated that the comparison of ratio of ITC with output taxes payable during the pre GST and GST regime was not the right approach for real estate development business. He has also claimed that the above case was stayed by the Hon'ble High Court Delhi on the question of methodology adopted to compute the alleged profiteered amount. He has further claimed that in his case there was no effective increase in ITC benefit to be passed on to the buyers and the methodology adopted to determine profiteering needs to be revisited. He has also claimed that Section 171 of the CGST Act, 2017 should consider the increase in the cost of raw materials also. In view of the above the Respondent has requested to keep the proceeding in abeyance in as much as the Hon'ble High Court of Delhi in the case of Pyramid Infratech Pvt. Ltd. had stayed the proceedings questioning the methodology to calculate the quantum of profiteering.

15. The Respondent has also submitted that since the projects in the construction business were spread over a period of time there could not be a co-relation between the inward supplies and the input taxes. He

has also stated that out of a total saleable area of 4,83,055 sq. ft. of the project in the year 2014-15 only 1,56,762 sq. ft., in the year 2015-16 61,474 sq. ft., in the year 2016-17 29,590 sq. ft. and in the year 2017-18 (till 07.03.2018) only 16,899 sq. ft. was sold. Based on this data he has claimed that the total turnover, taxable turnover and corresponding output tax was lower and could not be compared to the ITC on year-on-year basis. He has also claimed that after obtaining the occupancy certificate any flat sold will not be liable to GST and hence he would have to reverse the ITC availed against such unsold flats. He has further claimed that any contract for sale of residential flats consisted of undivided share in land and sale of constructed portion, while the land was immovable only the constructed portion was liable to tax. He has further stated that amounts received from the buyers were towards land and construction but the taxable turnover took into account only the construction value. Based on the above reasons the Respondent has claimed that the methodology adopted in the case of Pyramid Infratech Pvt. Ltd. or in his case was incorrect and should not be adopted. However the Respondent has finally stated that based on his own methodology he has arrived at the benefit of ITC derived by him and accordingly has passed on the same to his customers with whom agreements were entered into on or before 30.06.2017. Based on his methodology Rs. 9/- per sq. ft. has been passed on to his customers and the details of the same were enclosed as Annexure-2 to his reply.

16. We have carefully considered all the reports filed by the DGAP, submissions of the Respondent and other material placed on record and find that the Applicant No. 1 had booked Flat No. 0702, Block- F on

23.03.2015 with the Respondent in his project 'Laurel Heights' measuring 1027 sq. ft. at the basic sale price of Rs. 3,085/- per sq. ft. The above project consisted of 434 flats (4,83,055 sq. ft.) of which 70.81% belonged to the Respondent and 29.19% belonged to the land owner. It is also admitted fact that 73% of the project was completed while 84% of the flats were sold and completion certificate was also obtained on 07.03.2018.

17. The Respondent's first contention is that the real estate business was market driven and spread over a period of 4-5 years and its pricing depended upon various parameters and therefore the methodology followed by the DGAP while computing the profiteered amount was not correct. It is clear from the Section 171 of the CGST Act, 2017 that it does not envisage to take into account the costs incurred on the construction but only requires that the benefit of ITC if any extended by the Government should be invariably passed on to the end consumer. The real estate business might be spread over a period of 4-5 years but it is also a fact that the flats are sold in instalments without waiting for completion of the project or the completion certificate. Hence the question of waiting endlessly to pass on the benefit of ITC to the buyer who has already paid the entire instalments is not justified and the provisions of the above section also do not provide that such benefit should be passed on completion of the project. It may also be emphasised that most of the real estate projects are not completed within the stipulated period of time. In the present case it's an admitted fact that the completion certificate has been received on 07.03.2018 and hence any flat sold after this period will not be liable to GST. Therefore

the DGAP has rightly taken into account the estimated reversals on the unsold flats and accordingly arrived at the profiteered amount. Therefore the above contention of the Respondent is irrelevant and cannot be accepted.

18. The second contention of the Respondent is that in the case of Pyramid Infratech Pvt. Ltd. decided by this Authority, the Hon'ble High Court of Delhi while granting stay has observed that the methodology to calculate the quantum of anti-profiteering needed more detailed and further examination. The above submission made by the Respondent is absolutely incorrect. The Hon'ble High Court of Delhi in the W. P. (C) No. 10999/2018 dated 20.11.2018 has stated that "Be that as it may, as an interim arrangement, we direct the petitioner to deposit Rs. 5,11,60,450/- with the respondent authorities within 3 weeks from today. On the deposit being made, the same would be converted into an interest bearing FDR for a period of nine months. The FDR amount and the interest accrued thereon would abide by further orders of this court. It is made clear that this is only an interim arrangement and the court has not expressed any firm and final view". Accordingly the Respondent in the case of Pyramid Infratech Pvt. Ltd. had deposited the amount of Rs. 5,11,60,450/-. Therefore the Respondent's submission in this regard is totally baseless and devoid of any merit.

19. The third contention of the Respondent is that the total turnover, taxable turnover and the corresponding output tax are not comparable because the area sold will be different at different periods of time. This submission of the Respondent is irrelevant because the project has been completed and the completion certificate has also been received on

07.03.2018. Therefore the turnover on the sold flats, the ITC benefit as per returns and the details of unsold flats are all known and available as per the records filed by the Respondent himself. Therefore, the factors to determine the benefit of ITC have attained finality and hence the calculation of the profiteered amount by the DGAP is absolutely correct.

20. The Respondent has himself admitted that there has been benefit of ITC derived and the benefit has been passed on by him to all his customers with whom agreements were entered on or before 30.06.2017. According to him the benefit has been computed at Rs. 9/- per sq. ft. and based on this calculation he has passed on benefit of Rs. 22,83,426/- to 221 flat buyers. To arrive at this derived benefit the Respondent has provided worksheet (annexure-1 to his reply) showing that the pending work orders with his sub-contractors were renegotiated and were reduced by Rs. 49,85,249/- which works out to Rs. 9/- per sq. ft. However no documents have been submitted to establish the credentials of the worksheet filed by him. Moreover a project includes common area and the facilities provided in the common area are also eligible for the benefit of the ITC. Other factors such as CST benefit have also not been taken into account for arriving at this calculation. Therefore the right methodology would be to take into account the ITC ratio to the turnover and accordingly arrive at the benefit of ITC to be derived by the Respondent. The DGAP has correctly analysed the ITC ratio as 2.66% and applying this ratio to the payments made on or after 01.07.2017 the profiteered amount is determined as Rs. 99,20,246/-. This amount includes profiteered amount of Rs. 18,563/- to be paid to the Applicant No.1 and Rs. 80,37,392/- to all the other 231 buyers. The Respondent

has also to pass on the benefit of profiteered amount of Rs. 18,64,290/- to the land owner who will in turn pass on the benefit to his buyers.

21. In view of the above facts this Authority under Rule 133 (3) (a) of the CGST Rules, 2017 orders that the Respondent shall reduce the prices to be realized from the buyers of the flats commensurate with the benefit of ITC received by him as has been detailed above. The Authority hereby determines the profiteered amount as Rs. 99,20,246/- and directs the Respondent to pass on the benefit of Rs. 18,563/- to the above Applicant, Rs. 80,37,392/- to the 231 buyers as given in the Annexure-16 of the DGAP report and Rs. 18,64,290/- to the land owner, along with interest @18% per annum to these 232 flat buyers from the dates from which the above amount was collected by him from the buyers till the payment is made.

22. It is also evident from the above narration of facts that the Respondent has denied benefit of ITC to the buyers of the flats being constructed by him in his Project 'Laurel Heights' in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and has thus realized more price from them than what he was entitled to collect and has also compelled them to pay more GST on the additional realisation than what they were required to pay by issuing incorrect tax invoices and hence he has committed an offence under section 122 (1) (i) of the CGST Act, 2017 and therefore, he is liable for imposition of penalty under the provisions of the above Section. Accordingly, a Show Cause Notice be issued to him directing him to explain as to why the penalty prescribed under Section 122 of the above Act read with Rule 133 (3) (d) of the CGST Rules, 2017 should not be imposed on him. Since a specific

allegation of issuing incorrect invoices has been levelled against the Respondent he would have sufficient opportunity to state his defence on the above charge.

23. The Authority as per Rule 136 of the CGST Rules 2017 directs the Commissioners of CGST/SGST Karnataka to monitor this order under the supervision of the DGAP by ensuring that the amount profiteered by the Respondent as ordered by the Authority is passed on to all the eligible buyers. A report in compliance of this order shall be submitted to this Authority by the Commissioners CGST/SGST Karnataka through the DGAP within a period of 4 months from the date of receipt of this order.

24. A copy each of this order be supplied to both the Applicants, the Respondent, Commissioners CGST/SGST Karnataka as well as the Principal Secretary (Town & Planning), Government of Karnataka for necessary action. File be consigned after completion.

Sd/-
(B. N. Sharma)
Chairman

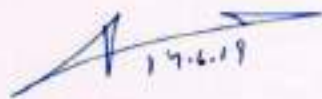
Sd/-
(J. C. Chauhan)
Technical Member

Sd/-
(R. Bhagyadevi)
Technical Member

Sd/-
(Amand Shah)
Technical Member



Certified copy


14.6.19

(A. K. Goel)
Secretary, NAA

File No. 22011/NAA/09/Sattva/2019

Dated: 14.06.2019

Copy to:-

1. Shri Deepak Kumar Khurana, TMQ No. 338/1, 6th Camp Air Force Station, Jalahalli, East, Bangalore-560014

2. M/s Sattva Developers Pvt Ltd, 4th Floor, Salarpuria Windsor, # 3, Ulssor Road, Bangalore-560042, Karnataka.
3. Commissioner, State GST department, Vanijya Therige Karyalaya-1, 1st Main Road, Gandhinagar, Bengaluru-560009.
4. Commissioner, GST, Central Revenue Buildings Annexe, Queens Rd, Shivaji Nagar, Bengaluru, Karnataka 560001
5. Principal Secretary/ Director, Directorate of Town Planning, GPO PB # 5257, Multi-storeyed Building Phase IV, Dr. B.R. Ambedkar Veedhi, Bengaluru - 560 001, Karnataka.
6. Director General Anti-Profitteering, Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.
7. NAA Website/Guard File.

 14.6.19