BEFORE THE NATIONAL ANTI-PROFITEERING AUTHORITY UNDER

THE CENTRAL GOODS & SERVICES TAX ACT, 2017

Case No.	04/2019
Date of Institution	30.10.2018
Date of Order	31.01.2019

In the matter of:

1. Sh. Kiran Chimirala chiki1303@gmail.com
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. Jubilant Food Work Ltd., 5th Floor, Tower-D, Plot No. 5, Logix Techno Park, Sector-127, Noida-201304, U.P.

Respondent

Quorum:-

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

Present:-

1. None for the Applicant No. 1.
2. Ms. Gayatri Verma, Deputy Commissioner, Mr. Akshat Aggarwal, Assistant Commissioner and Mr. Bhupender Goel, Assistant Director (Costs) for the Applicant No. 2.
3. Mr. Prakash Bisht, EVP & CFO, Mr. J. Devarajan, VP, Mr. V. Lakshmikumaran, Advocate, Mr. Manish Gaur, Advocate, Mr. Dhruv Gupta, Advocate, Mr. Rachit Jain, Advocate, Mr. Gaurav Gogia, CA, Mr. Keshav Kumar Sharda, GM, Mr. Ashish Srivastava, Manager, Ms. Disha Jain, Advocate and Ms. Uma Kapoor, Manager (Taxation) for the Respondent.

ORDER

1. The brief facts of the case are that under Rule 128 of the Central Goods and Services Tax (CGST) Rules, 2017 an application through e-mail dated 29.11.2017 (Annexure-1 of the Report) was filed by the Applicant No. 1 against the Respondent stating that he had purchased 1 SGB Stuffed GB (Garlic Bread) and 1 Med NHT Veg Extrava (Medium Veg Pizza) after paying Rs. 129/- and Rs. 440/- per item respectively vide tax Invoice No. 66065/17/66210 dated 20.10.2017 (Annexure-2 of the Report) from the restaurant being run by the Respondent in Bengaluru. He had also stated that he had purchased the above 2 items again vide tax Invoice No. 66294/17/40249 dated 19.11.2017 (Annexure-3 of the Report) by paying an amount of Rs.139/- and Rs. 485/- respectively

from the Respondent. He had alleged that though the Goods & Services Tax (GST) rate on restaurant services was reduced from 18% to 5% w.e.f. 15.11.2017, the Respondent had increased the base prices of the above food items and charged the same base prices which he was charging before the rate of tax was reduced and had he maintained the same base prices which he was charging before the tax reduction the consumers would have been benefited but in this case it had not happened. He had therefore alleged that the Respondent had resorted to profiteering and accordingly action should be taken against him. He had also stated that large organisation like the Respondent should be investigated where the prices had been inflated with the reduction in the rate of tax.

2. The application was prima facie examined by the Standing Committee on Anti-profiteering in its meeting held on 20.12.2017 (Annexure-4 of the Report), wherein it was decided to forward the same to the Director General Anti-profiteering (DGAP) for further detailed investigation as it appeared to be pan India in nature. The DGAP after completing the investigation has submitted the present Report dated 16.07.2018 under Rule 129 (6) of the CGST Rules, 2017. Since the documents submitted by the Respondent were voluminous, extension for completing the investigation was sought by the DGAP which was granted by this Authority vide its order dated 04.04.2018, in terms of Rule 129 (6) of the CGST Rules, 2017.

3. The DGAP in his Report has stated that a notice under Rule 129 of the CGST Rules, 2017 was issued on 25.01.2018 (Annexure-5 of the Report) calling upon the Respondent to reply as to whether or not he admitted that the benefit of reduction in the rate of GST had been

passed on by him to his recipients by way of commensurate reduction in prices. The Respondent was also asked to *suo-moto* determine the quantum of benefit not passed on to his customers, if any, and intimate the same in his reply. The DGAP had also asked the Respondent to furnish the required information which was supplied by him vide his letters attached as Annexures-8 to Annexure-17 with the Report including the confidential information. The Applicant No. 1 was also given an opportunity by the DGAP vide his e-mail dated 28.06.2018 (Annexure-6 of the Report), to inspect the non-confidential records/replies submitted by the Respondent but the above Applicant did not avail of this opportunity. The DGAP has informed that the present investigation was conducted for the period between 15.11.2017 to 31.05.2018.

4. As per the DGAP's Report the Respondent had made the following claims:-

(a)That the Respondent was engaged in the business of operating quick service restaurants under the brand name "Domino's Pizza" and had a pan-India presence with 1,128 outlets across 31 States and Union Territories in which they were registered under the GST and these outlets were maintaining consistency from taste to overall experience and the prices of all the products as shown in the menu were exclusive of all taxes/GST except in the State of Maharashtra prior to 01.07.2017.

(b)That the Respondent had denied the allegation of profiteering and stated that there was no profiteering by him as the tax reduction in respect of restaurant services had been made along with denial of Input

Tax Credit (ITC) which had become a cost for him as he was required to pay GST on the inputs without benefit of the ITC.

(c) That the menu prices were exclusive of taxes/GST and hence any comparison had to be made between the cum-tax prices and not the base prices. The Respondent had also stated that the revised base prices had taken into account the cost of non-creditable input GST, however there had been no increase in the ultimate prices inclusive of GST to be paid by the customers.

(d) That he had increased the base prices of Medium Veg Pizza and Garlic Bread, however their selling prices inclusive of GST had actually decreased as could be seen from the following table:-

Type of product	Price up to 14.11.2017 (Rs.)			Price w.e.f.15.11.2017 (Rs.)			Increase in base price	Decrease in total price
	Base Price	GST @ 18%	Actual Price to Consumer	Base Price	GST @ 5 %	Actual Price to Consumer		
Medium Veg Pizza	440	79	519	485	24	509	10%	(2%)
Garlic Bread	129	23	152	139	7	149	8%	(4%)

(e) That the Medium Veg Pizzas mentioned in both the above invoices were two distinct products/Stock Keeping Units (SKU) with separate price structures and hence they couldn't be compared, as the invoice dated 20.10.2017 pertained to the Medium Veg Extravaganza Pizza Normal Crust Hand Tossed ("Type A") and the invoice dated 19.11.2017 referred to the Medium Veg Extravaganza

Pizza Pan Crust ("Type B"); the prices of both of them before and after tax reduction were as follows:-

Base Price in Rs.				Increase in Base Price			
Up to 14.11.2017		Post 14.11.2017					
Type A	Type B	Type A	Type B	Type A (Rs.)	% increase in Type A	Type B (Rs.)	% increase in Type B
440	470	450	485	10	2.27%	15	3.19%

(f) The Respondent had also stated that w.e.f. 15.11.2017, the denial of ITC had resulted in the monthly average cost of input GST on account of direct and indirect expenses of Rs. 6.60 Crore and Rs 7.70 Crore respectively in terms of the ITC availed during the period between July, 2017 to October, 2017 and the cost of the restaurant service had gone up therefore he had to increase the base prices of his products which was not commensurate with the increase in the input costs. The Respondent had explained the impact of monthly margin as per the details given below:-

Particulars	Amount (Rs.)
Average monthly increase in input tax cost relating to direct material expenses (monthly average for July to October, 2017)	~6.6 crores
Average monthly increase in input tax cost relating to indirect expenses incurred commonly (monthly average for July, 2017 to October, 2017)	~7.7 crores
Total increase in input tax credit costs	~ 14.2 crores
Average monthly increase in revenue on account of increase in base price (projection on sales data for September, 2017)	~ 11.8 crores
Total impact on monthly margin	~(2.4) crores

(g) . The Respondent had also claimed that there were a number of factors involved in determining the prices of his products and the reasons for not passing on the entire burden on account of denial of ITC to the consumers had to be collectively analysed. He had also contended that due to competition and the price sensitivity of certain SKUs he had revised their base prices and absorbed the additional input costs. He had further contented that various factors like Competition pricing, Strategies for market penetration, Profit margins for sustaining in market, Life cycle of the product, Economic and political conditions, Credit period offered to vendors and Costs of procurement etc. had influenced pricing of his products.

(h) That as per general practice, he was increasing his base prices every year due to inflation and for Stuffed Garlic Bread the base price was increased by 17.3% over a period of 3 years which came to around 5.8% annually. He has also claimed that the annual increase in base prices ranged between 1% to 5% depending upon the product and he had made increase of at least 5% in November, 2017.

(i) The Respondent has also claimed that in respect of the Medium Veg Pizza and the Garlic Bread he had not only passed on the benefits by reduction in the tax rate but had also reduced their prices and incurred substantial losses.

(j) He has further claimed that after 15.11.2017, he had not availed any ITC for the restaurant services and the ITC claimed after 15.11.2017 pertained to the States where he had commissary or

warehouses which made stock transfers and had output GST liability. He has also stated that in lieu of the ITC register, he was maintaining purchase register and was availing ITC on the inter-state stock transfers to his restaurants and no ITC was availed by the restaurants.

(k) He has also intimated that he was running 1,128 restaurants all over the country each of which on an average was issuing 250-300 tax invoices per day with an average of 3 products per invoice. He has further intimated that the outward taxable supplies would be in excess of 10 crore line items therefore the details of outward taxable supplies had been supplied on a product level basis after reconciliation with the GSTR-1 returns.

5. The DGAP has also intimated that it was a matter of record that the Central Govt. on the recommendation of the GST Council, vide its Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017 had reduced the rate of GST from 18% to 5% w.e.f. 15.11.2017 on the restaurant services with the condition that the benefit of ITC would not be available on the goods and services supplied during the course of these services from the above date.

6. The DGAP has also stated that as per the provisions of Section 171 of the CGST Act, 2017 the benefit of ITC and reduction in the rate of tax must result in commensurate reduction in the prices of the goods or services and such reduction has to be in absolute terms so that the final price payable by a consumer is reduced. The DGAP has also stated that Section 171 did not provide a supplier of the goods or services any other means of passing on the benefit of ITC or reduction in the rate of tax to

the consumers. He has thus claimed that the legal position was unambiguous which mandated that the supplier of goods or services must pass on the benefit of ITC or reduction in the rate of tax to the recipients by way of reducing the prices to be paid by the recipients and there was no flexibility available to the suppliers to *suo-moto* decide on any other method of passing on both the above benefits.

7. The DGAP's report also states that the Respondent had submitted that he had incurred substantial losses by not passing the entire burden of denial of ITC and the resultant input tax costs to the customers by increasing his selling prices. In this regard the DGAP has contended that from the perusal of Note-4 attached to the Statement of Audited Financial Results for the quarter and year ending 31.03.2018 (Annexure-19 of the Report) it was clear that the Respondent's business activity fell within a single business segment, i.e. Food and Beverages. The DGAP has further contended that the Statement of Audited Financial Results for the current and previous periods submitted by the Respondent showed that post 15.11.2017, there was a distinct sharp increase in the profits made by him without a corresponding increase in the sale of his products and this increase was to the tune of 406.33% during March, 2018 quarter and 184.97% during the Financial Year (FY) 2017-18 as against the decline in the profits during the previous periods. The Report also stated that the increase in the sales was only of 27.26% during March, 2018 quarter and 17.06% during the FY 2017-18 and this negated the Respondent's claim that he had not factored in the loss of ITC in the increase which he had made in the prices and had also not taken in to account inflation in the cost of inputs while fixing the revised base prices and hence he had faced

decline in his profit margins. A summary of the sales and the profit before exceptional items and tax of the Respondent has been supplied by the DGAP as per the Table given below:-

Period [Financial Year (FY)/ Quarter Ending (QE)]	Sale of Products		Profit Before Exceptional Items & Tax		Change in Sale and Profits
	Sales (Rs. Lakh)	% increase over previous period	Profit (Rs. Lakh)	% increase over previous period	
FY 2014-15	2,07,409.32		17,206.12		
FY 2015-16	2,40,947.65	16.17%	16,696.21	-2.96%	Sale ↑ 16%; Profit ↓ 3%
FY 2016-17	2,54,606.98	5.67%	10,992.14	-34.16%	Sale ↑ 6%; Profit ↓ 34%
FY 2017-18	2,98,044.06	17.06%	31,323.84	184.97%	Sale ↑**17%**; Profit ↑**185%**
QE Dec 2014	58,426.83		4,880.17		
QE Dec 2015	63,376.09	14.34%	4,551.34	-6.74%	Sale ↑ 15%; Profit↓ 7%
QE Dec 2016	65,875.51	3.94%	2,947.53	-35.24%	Sale ↑ 4%; Profit ↓ 35%
QE Dec 2017	79,516.54	20.71%	10,092.29	242.40%	Sale ↑**21%**; Profit ↑ **242%**
QE March 2015	54,200.99		4,530.23		
QE March 2016	61,783.59	13.99%	4,389.54	-3.11%	Sale ↑ 14%; Profit ↓ 3%
QE March 2017	61,277.50	-0.82%	2,026.08	-53.80%	Sale ↓ 1%; Profit ↓ 54%
QE March 2018	77,932.06	27.26%	10,268.81	406.33%	Sale ↑**27%**; Profit ↑ **406%**

8. The DGAP has also stated that the Respondent had been dealing with a total of 393 items while supplying restaurant services before and after 15.11.2017. He has further stated that after comparing the selling prices as per the invoices issued by the Respondent, the increase in base prices after the reduction in the rate of tax w.e.f. 15.11.2017 was quite apparent in the case of 314 items (79.90% of 393 items) supplied by him as could be ascertained from Annexure 21 attached with the Report. The DGAP has also submitted that the GST rate of 5% had been charged on the increased base prices of these 314 items, which confirmed the Respondent's contention that the tax amount was computed @ 18% prior to 15.11.2017 and @ 5% w.e.f. 15.11.2017, however, because of the increase in the base prices the cum-tax price paid by the consumers had

not been reduced commensurately for all the above items, inspite of the reduction in the rate of tax.

9. The DGAP in his report has further stated that the impact of denial of ITC required the determination of the ITC as a percentage of the total outward taxable turnover during the periods pre and post GST rate reduction and accordingly he has calculated the same by taking into consideration the period from 01.07.2017 to 31.10.2017 and not up to 14.11.2017 due to the following reasons:-

(a) The Respondent has reversed the ITC on the closing stock of inputs and the capital goods as on 14.11.2017 and this credit was not available in the GSTR-3B return of November, 2017. As these inputs would have been used after 15.11.2017, their ITC had been left out as no ITC could be claimed after the above date.

(b) The details of the invoice-wise outward taxable turnover for the month of November, 2017 were not supplied by the Respondent to calculate the taxable turnover for the period between 01.11.2017 to 14.11.2017.

(c) Random checks of the invoices on which the ITC was availed by the Respondent during the month of November, 2017 revealed that in a few cases credit was taken by the Respondent without fulfilling the prescribed conditions and a number of discrepancies were found in the ITC availed e.g. the Respondent had availed ITC of Rs. 44.90 Lakh on 14.11.2017 on invoice No. 6145505874 dated 18.10.2017 issued by M/s Nilkamal Limited and of Rs. 4.20 Lakh on 14.11.2017 on invoice No. CDPI17000816 dated 13.11.2017 issued by M/s

Contract Advertising (India) Ltd., however, the former invoice was received by the Respondent in the month of January, 2018 and the latter invoice in the month of December 2017, thus, the Respondent was not in possession of these invoices on the date of availing of the ITC which amounted to contravention of the provisions of Section 16 (2) (a) of the CGST Act, 2017.

(d) The Respondent had intimated vide his letter dated 11.07.2018 that he had availed transitional credit of Rs. 1.84 crore at the time of filing GSTR-3B return for the month of November, 2017 however, he had also availed the same amount of Rs. 1.84 Crore as ITC through TRAN-1. The DGAP has contended that As per the provisions of Rule 117 of the CGST Rules, 2017, transitional credit could only be carried forward by filing GST Form TRAN-1 and not through the GSTR-3B return.

10. The DGAP has also intimated that while computing the ITC as a percentage of the total taxable turnover of the Respondent, the ITC for the period w.e.f. July, 2017 to October, 2017, as mentioned in the GSTR-3B return had been adjusted by excluding the amount of ITC of tax paid on inter-unit branch transfers as per the sales register. He has further intimated that while determining the net taxable turnover of the Respondent during the period from July, 2017 to October, 2017, the total taxable turnover (excluding inter-unit branch transfers) as per the GSTR-1 returns filed for the period from July, 2017 to October, 2017 had been taken into consideration. He has also submitted that the ratio of ITC to the net taxable turnover had been taken for determining the impact of denial of ITC (which was available to the Respondent till 14.11.2017).

Accordingly, the DGAP has claimed that ITC amounting to Rs. 55.50 Crore was available to the Respondent during the period between July, 2017 to October, 2017 which was 5.59% of the net taxable turnover of the restaurant service supplied during the same period. The DGAP has also mentioned that w.e.f. 15.11.2017, when the GST rate on restaurant services was reduced from 18% to 5%, the ITC was not available to the Respondent. A summary of the computation of the ratio of input tax credit to the taxable turnover of the Respondent is given in the Table below: -

(Amount in Rs.)

Particulars	Jul-17	Aug-17	Sept.-2017	Oct.-2017	Total
ITC Availed as per GSTR-3B (A)	9,59,21,833	21,19,96,345	24,71,23,168	22,77,09,524	78,27,50,870
Less: Tax on inter unit branch transfers as per Sales register (B)	4,86,70,456	6,34,79,714	5,65,75,226	5,90,15,082	22,77,40,478
Net Input Tax Credit available for the period July, 2017 to October, 2017 (C)= (A-B)	**4,72,51,377**	**14,85,16,631**	**19,05,47,942**	**16,86,94,442**	**55,50,10,392**
Total Outward Taxable Turnover as per GSTR-1 (D)	2,78,61,32,213	2,99,11,80,009	2,93,77,50,465	3,04,74,93,204	11,76,25,55,891
Less: Inter unit branch transfers included in B2B Sales as per Sale Register (E)	39,18,73,402	49,69,53,429	44,71,12,802	49,47,41,644	1,83,06,81,277
Net Outward Taxable Turnover for the period July, 2017 to October, 2017 (F) = (D-E)	**2,39,42,58,811**	**2,49,42,26,580**	**2,49,06,37,663**	**2,55,27,51,560**	**9,93,18,74,614**
Ratio of Input Tax Credit to Net Outward Taxable Turnover (G)= (C/F)					**5.59%**

11. The DGAP's Report also states that on the basis of the analysis of the details of the item-wise outward taxable supplies made during the period between 15.11.2017 to 31.05.2018, it was revealed that the Respondent had increased the base prices of a number of items supplied as a part of restaurant services to make up for the denial of ITC post GST rate reduction. He has also stated that the pre and post GST rate reduction prices of the items sold by the Respondent as a part of restaurant services during the period between 15.11.2017 to 31.05.2018 were compared and it was found that the Respondent had increased the base prices by more than 5.59% i.e. by more than what was required to offset the impact of denial of ITC in respect of 170 items out of total 393 items sold during the same period and therefore, in respect of these items the commensurate benefit of reduction in the rate of tax from 18% to 5% had not been passed on to the customers by the Respondent.

12. The DGAP has further concluded that after analysis of the impact of denial of ITC and the details of the outward supplies other than zero rated, nil rated and exempted supplies made during the period between 15.11.2017 to 31.05.2018 and as per the product wise sales registers reconciled with the GSTR-1 and GSTR-3B returns, the amount of net higher sale realization due to increase in the base prices of the services, despite reduction in the GST rate from 18% to 5%, with denial of ITC or in other words, the profiteered amount came to Rs. 41,42,97,635/- as per the detailed calculations made vide Annexure-23 of the Report. This amount was inclusive of Rs. 5.65/- which was the profiteered amount in respect of the Applicant No. 1.

13. The above Report was considered by the Authority in its meeting held on 17.07.2018 and it was decided to hear the Applicants and the Respondent on 02.08.2018 but the hearing was postponed to 13.08.2018 on the request of the Respondent. On 13.08.2018 none appeared for the Applicant No. 1, Applicant No. 2 was represented by Ms. Gayatri Verma, Deputy Commissioner, Mr. Akshat Aggarwal, Assistant Commissioner and Mr. Bhupender Goel, Assistant Director, (Costs). The Respondent was represented by Mr. Prakash Bisht, EVP & CFO, Mr. J. Devarajan, VP, Mr. V. Lakshmikumaran, Advocate, Mr. Manish Gaur, Advocate, Mr. Dhruv Gupta, Advocate, Mr. Rachit Jain, Advocate, Mr. Gaurav Gogia, CA, Mr. Keshav Kumar Sharda, GM, Mr. Ashish Srivastava, Manager, Ms. Disha Jain, Advocate and Ms. Uma Kapoor, Manager (Taxation). On the specific request of the Respondent, 3 further hearings were held on 21.08.2018, 11.09.2018 and on 22.10.2018.

14 The Respondent has filed detailed written submissions on 13.08.2018, 21.08.2018, 11.09.2018, 17.09.2018, 05.10.2018 and on 22.10.2018. In his initial submissions dated 13.08.2018, the Respondent has stated that the Standing Committee had erred in referring the matter to the DGAP for further investigation, as the Applicant No. 1 had filed complaint in respect of 'medium veg. pizza', while the invoices submitted by the above Applicant showed that the pizzas ordered by him were of different variety. The pizza ordered by the above Applicant vide invoice dated 20.10.2017 was *'Medium Veg Extravaganza Pizza Normal Crust Hand Tossed*, whereas the pizza ordered by him vide invoice dated 19.11.2017 was *'Medium Veg Extravaganza Pizza Pan Crust'*. Therefore, the Respondent has contended that the application was filed for two different and incomparable products, the prices of which couldn't be compared. The

Respondent has also submitted that the investigation report had gone beyond the application and investigated all the 393 SKUs sold by the Respondent for profiteering which couldn't have been done. In this regard, the Respondent has also relied upon the 2 cases viz. ***M/s Dinesh Mohan Bhardwaj Proprietor U. P. Sales & Services v. M/s Vrandavaneshwree Automotive Private Limited 2018-VIL-01-NAA*** *and* ***Rishi Gupta v. M/s Flipkart Internet Pvt. Ltd. 2018-VIL-04-NAA*** and contended that in both these case this Authority had limited its findings only to the products in respect of which the complaints were made and had not taken cognizance of the other products which the Respondents were supplying. He has further contended that in his case the complaint was made only in respect of two products, viz. 'Medium Veg Extravaganza Pizza' and 'Garlic Bread' and the recommendation received from the Standing Committee was only with regard to 'pizza', however, the DGAP had *suo- moto* assumed jurisdiction with regard to all the SKUs sold by the Respondent and had thus gone beyond his jurisdiction and therefore his investigation should have been restricted only in respect of the above products.

15. The Respondent also stated that the CGST Act, 2017 and the Rules made under it didn't prescribe the procedure and the mechanism for determination and calculation of profiteering due to which the calculation and methodology used in the Report was arbitrary and was contrary to the principles of natural justice. Quoting Rule 126 of the CGST Rules, 2017 the Respondent has further stated that the Authority hadn't determined the methodology and the procedure under the above Rule for determination whether the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of ITC had been passed on by

the registered person to the recipient by way of commensurate reduction in the prices or not. He has also mentioned that the 'Procedure and Methodology' issued on 19.07.2018 by the Authority only provided the procedure pertaining to investigation and hearing but no method/formula had been notified/prescribed pertaining to calculation of profiteered amount and there was no indication how to conclude that there was profiteering due to change in the rate of tax and whether such computation had to be done invoice-wise, product-wise, business vertical-wise or entity-wise etc. He has therefore contended that due to lack of transparency the results could vary from case to case resulting in arbitrariness and violation of Article 14 of the Constitution of India.

16. The Respondent has also stated that in order to control rise in inflation on account of implementation of GST, the Malaysian Government had promulgated the 'Price Control and Anti-Profiteering (Mechanism to Determine Unreasonably High Profit) (Net Profit Margin) Regulations, 2014, which provided for the mechanism to calculate the profiteered amount on account of GST. He has further stated that the anti-profiteering measures in Australia were based on the 'Net Dollar Margin Rule' on which profiteering was calculated. Relying on the cases mentioned below he has claimed that unless the methodology was in place no action could be initiated:-

(1) ***Commissioner of Income Tax, Bangalore v. B. C. Srinivasa Setty (1981) 2 SCC 460***, in which the Hon'ble Supreme Court had held that charging section was not attracted where corresponding computation provision was inapplicable.

(2) ***Eternit Everest Ltd. v. Union Of India 1997 (89) ELT 28 (Mad.)***, where the Hon'ble Madras High Court had held that in the absence of machinery provisions pertaining to determination and adjudication upon a claim or objection, the statutory provision will not be applicable.

17. The Respondent has also claimed that the compulsory deposit of the profiteered amount into the Consumer Welfare Fund (CWF) was akin to the levy in collection of taxes themselves, which as per the taxation law was illegal due to the absence of the method of computation of quantum of tax. The Respondent has further claimed that in the absence of prescribed method/formula/guidelines for calculation of the profiteered amount, case-to-case basis determination of profiteering was arbitrary and illegal.

18. The Respondent has also submitted that while calculating the alleged profiteered amount, the DGAP had wrongly added notional 5% in this amount without explaining the reasons. The Respondent has further submitted that this amount appeared to have been added due to GST which had been charged on the profiteered amount which had been duly collected and deposited with the Government, therefore, addition of this notional 5% amount was illegal and hence the above profiteered amount was required to be reduced by Rs. 1.97 Crore.

19. The Respondent has also claimed that a customer would usually order more than one item (SKU) and therefore, for the purpose of computation of the profiteered amount, he should be considered as an entity supplying restaurant services, and once his operations were assessed on the basis of his status of 'being a restaurant', a holistic approach should be applied by the authorities for computation of the profiteered amount. He has further

claimed that the profiteered amount should be calculated on the basis of Profit & Loss (P&L) Account and not item (SKU) wise. He has also contended that while computing the profiteered amount the DGAP had not taken into the account those items (SKUs) where the price increase was within the permissible limit and the amount of profiteering for such products had been kept as 'zero' (0). While referring to Section 171 of the CGST Act, 2017 and Rule 127 (i) and (ii) of the CGST Rules, 2017 and the notes on Section 171, the Respondent has submitted that from a joint reading of the above provisions, it was apparent that a registered person should pass on the benefit of reduction in the rate of tax or ITC to the recipient by way of 'commensurate' reduction in prices by keeping both of them as separate entities. The Respondent has also alleged that the DGAP had treated him as an entity although all the stores of the Respondent were separately registered and were separate entities as per the GST law. He has further alleged that the DGAP had taken into account the total price charged from the customers all over India for arriving at the alleged profiteered amount which was incorrect. The Respondent has also objected to the methodology adopted by the DGAP in not 'netting off' the increase and decrease from the optimum price as he should have considered the positive and negative price variations in respect of all the SKUs which were above and below the optimal price to arrive at the profiteered amount. Accordingly he has claimed that it was necessary to define the term 'commensurate' appearing in Section 171 and Rule 127. He has further stated that the Legislature had qualified the word 'reduction' by using the word 'commensurate' and therefore the word 'commensurate' in this context would mean 'appropriate', 'adequate' or 'proportionate'. He has

also cited the following dictionary definitions of the word 'commensurate' to support his claim:-

(i) Random House Compact Unabridged Dictionary, Special Second Edition:

1. *Having the same measure; of equal extent or duration.*
2. *Corresponding in amount, magnitude or degree.*
3. *Proportionate, adequate.*
4. *Having a common measure.*

(ii) The New International Webster's Comprehensive Dictionary of the English Language, Deluxe Encyclopaedic Edition:

5. *Commensurable.*
6. *In proper proportion; proportionate.*
7. *Sufficient for the purpose or occasion.*
8. *Adequate; of equal extent.*

(iii) The Compact Edition of the Oxford English Dictionary:

9. *Having the same measure; of equal extent, duration or magnitude.*
10. *Of corresponding extent, magnitude, or degree; proportionate, adequate.*
11. *Corresponding in nature; belonging to the same sphere or realm of things.*
12. *Characterized by a common measure.*

20. Therefore, the Respondent has claimed that while determining the 'commensurate' benefit to be given to the recipient, reduction in price must necessarily be considered by treating the Supplier as an 'entity' and the 'recipient' as a group and hence the entire supply made by him must be considered and then on comparison of reduction of tax rate and additional ITC, it was to be determined whether profiteering had been done by such a Supplier as an entity. He has further claimed that the

customers buy a variety of food and beverages from his outlets and they had not suffered the price increase above 5.59%. He has also submitted that in the present case the DGAP had made item-wise/SKU-wise analysis and concluded that the Respondent had increased base prices by more than 5.59% in respect of 170 items however the DGAP had not taken into account the prices of 223 items on which the Respondent had reduced the prices. He has further submitted that he was one entity and the entire data of his supply was required to be considered as such entity and then compared with the erstwhile figures as the rate of tax on all the supplies made by the Respondent was same.

21. The Respondent has also stated that he had not increased the prices of all the SKUs w.e.f. 15.11.2017 and the change in the prices whether increase or decrease in respect of some of the SKUs was based on market conditions, consumer behaviour and competition in the market. He has further stated that it was his usual business practice to increase the prices of his products at different rates and historically also he had made different price increases for different SKU's. The Respondent has also claimed that the DGAP had wrongly applied a methodology similar to the 'zeroing methodology' which was used by the anti-dumping authorities in certain countries which while calculating the dumping margins took only those SKUs in account which were being dumped and those SKU's which were not being dumped were not considered. The Respondent has further claimed that the Government of India (GOI) had objected to this methodology at the WTO and argued that while determining the dumping margins, all the SKUs should be taken into consideration. He has also cited the ***Report No. WT/DS141/AB/R dated 01.03.2001 of the***

Appellate Body of WTO in his support and claimed that the plea of the GOI was accepted by the Appellate Body and both positive and the negative margins were ordered to be taken in to account to determine the dumping margins and the same methodology of 'netting off' should be applied in his case also to determine the profiteered amount as the methodology applied by the DGAP in the present case was opposite of the stand taken by the GOI. The Respondent has also claimed that the profiteered amount should be calculated at the entity level and not on SKU level and should also take in to account the price reductions as well as the price increases. He has further claimed that his unit had incurred a loss of more than Rs.19 Crore after adjusting the positive and negative prices of all the SKUs.

22. The Respondent has further submitted that the Government had not prescribed any methodology for the Suppliers to pass on the benefit of additional ITC or reduced GST rates to the consumers due to which they had to use their best judgment keeping in view their business operations as well as the global practices. The Respondent has claimed that being a service industry, he had followed the P & L Approach which was followed in Malaysia to pass on the additional cost which had arisen due to non-availability of ITC. He has further claimed that the methodology adopted by the DGAP of treating the Respondent as service industry for assessment purpose and considering SKU for calculation of the profiteered amount was incorrect and thus, his Report was liable to be rejected.

23. The Respondent has also averred that he had revised the prices of almost all the SKUs as a normal business decision due to the various

factors like rise in the price of raw material due to inflation and increase in the cost due to non-availability of the ITC which was available earlier. He has admitted that the differential price revision for the year 2017 was made w.e.f. from 15.11.2017 as a business decision and it did not in any way prove that that he had any intention to profiteer due to reduction in the rate of tax and he normally used to increase the prices 2-3 times in a year generally in July-Sept to account for the normal inflation however, during the year 2017-18, he had decided to postpone the increase in sale prices from July, in view of the implementation of the GST and after its coming in to force had assessed the normal inflation and raised the sale prices of his products. He has also stated that the price charged by the Respondent was exclusive of tax and w.e.f. 15.11.2017 he had been charging 5% GST and even after the revision of prices, the total amount charged from the recipients was less than the total amount received for such services from the recipients prior to the reduction in the tax rate. The Respondent has also cited the case of ***Kumar Gandharv*** **v.** ***KRBL Ltd. 2018-VIL-02-NAA*** decided by this Authority in his support in which it was held that the supplier had increased the MRP of his product from Rs. 540/- to Rs. 585/- which constituted increase of 8.33%, keeping in view the increase in the purchase price and hence the law settled in the above case was fully applicable in the present case also as increase in the cost was a reason for price increase and frequent price increases were very common in the food and the beverage industry, however, the DGAP had not taken in to account the normal inflation and presumed that the Respondent was entitled to increase his prices on account of denial of ITC only. He has also argued that in case the impact of nominal inflation

in cost of 1.99% was considered, then the profiteered amount would reduce by Rs. 12.75 Crore.

24. The Respondent has also claimed that the conclusion of the DGAP at paragraph 12 of his Report that there was a sharp increase in the profits made by the Respondent without corresponding increase in the sale of his products was wrong as during the Quarter Ending (QE) March 2018 as compared to the QE March 2017 profits had increased by 406% while the sales had increased only by 27% and the profits during the FY 2017-18 had increased by 185% whereas the sales had shown increase of 17% as compared to the previous year. In respect of this claim of the DGAP the Respondent has submitted that major reason for increase in the profits was the substantial increase in the sales as it was settled principle of accounting that after reaching the break-even point when the contribution, i.e. sales minus variable cost was enough to cover the fixed cost the incremental contribution generated by incremental sales added directly to the profits as fixed cost did not increase in the same proportion. The Respondent has further claimed that the sales had increased by 17% during the FY 2017-18 as compared to the FY 2016-17, whereas the fixed expenses during the FY 2017-18 had not increased in proportion to the increase in the volume of the sales. He has also argued that although the variable expenses ratio for the FY 2017-18 was in the same range when compared to the previous years the profits were generated though additional sales therefore, the major reason for increase in the profits was due to the reason that the rate of increase in fixed cost was less than the rate of increase in the sales and the DGAP had failed to consider the impact of increased sales and reduced fixed

expenses per unit or percentage to the sale and thus, the conclusion drawn by him was factually incorrect and was not liable to be considered. The Respondent has also placed Exhibit-8 on record to support his claim.

25. The Respondent has further claimed that the DGAP has wrongly computed the amount of eligible increase due to non-availability of ITC as 5.59% which should be 7% as he has not taken in to account the ITC for the period w.e.f. 01.11.2017 to 14.11.2017. The Respondent has contested the claim made by the DGAP for not considering the above ITC by stating that reversal of ITC of Rs. 7.73 Crore on the closing stock of the inputs and the capital goods had been duly mentioned in the GSTR-3B return. He has also submitted that the DGAP had allowed him to provide SKU wise details of the sales instead of invoice wise details due to large number of invoices. He has further stated that the discrepancies pointed out by the DGAP in respect of the invoices issued by M/s Neel Kamal and M/s Contract Advertising (India) Pvt. Ltd. were incorrect as the invoices were received by him before 15.11.2017, the date from which the Respondent was not eligible to claim ITC, even otherwise also ITC could not be denied as the invoices pertained to the period when he was eligible to claim ITC. He has also stated that the TRAN-1 credit of Rs. 1.84 Crore was claimed in the month of November, 2017 only once and not twice which could be verified from the ITC register as well as the GSTR-3B return. He has also averred that he was entitled to claim ITC of Rs. 20.72 Crore till 14.11.2017 which should have been allowed to him. He has also alleged that the DGAP had considered the period between 01.11.2017 to 14.11.2017 for all other calculations except for the computation of ITC which had adversely affected him. The Respondent has further alleged that the DGAP had considered the ITC on the Inter-

State Stock transfers on the basis of the Sales Register, while the actual ITC availed was less in the ITC Register, as the ITC on such transfers for the last 2-3 days of a particular month was availed during the next month and in case the ITC on these transfers was considered from the ITC Register the Respondent would be eligible for increase in prices of 7% instead of 5.59% due to denial of ITC and the profiteered amount would decrease by Rs. 9.21 Crore.

26. The Respondent has also submitted that the DGAP has wrongly used average sale realization for calculating the profiteered amount instead of the menu prices as these prices had been formalised throughout the country and he was selling majority of his products on the menu price. He has further submitted that he was offering a number of discounts like Operational Discounts, Total Satisfaction Guarantee, Employee Discounts and Promotional Discounts which varied from 5.8% to 11.7% and from 0.5% to 4.3% from month to month and had the DGAP taken in to account these discounts the prices charged by him would be very close to the menu prices. The Respondent has also claimed that some discounts offered by him varied from 5.8% to 11.7% and some from 0.5% to 4.3%. The Respondent has further claimed that on the basis of the nature and kinds of discounts which significantly varied from customer to customer and from month to month, the DGAP had not taken them in to cognizance while calculating the profiteered amount. The Respondent has also stated that the DGAP had compared the SKU wise net realization from 01.10.2017-14.11.2017, prior to the rate reduction with the average net realization from 15.11.2017 to 31.5.2018, subsequent to the rate reduction instead of the menu prices provided by the Respondent and while calculating the net realization the impact of operational and

promotional discounts which were not part of the price was not considered which had adversely affected the calculation of the profiteered amount. The Respondent has further stated that if the comparison was made for the period between 01.10.2017- 14.11.2017 of 45 days with the period between 01.11.2017- 14.11.2017 of 14 days, the profiteered amount of Rs. 41.42 Crore would be reduced to Rs. 29.53 Crore. He has also cited the case of ***Rishi Gupta supra*** in this regard. He has also argued that since the menu prices were constant throughout the country the same should have been taken it to account instead of net sale realization which differed from case to case and such menu prices pre and post rate reduction should have been compared. The Respondent has further argued that he had changed his discount policy w.e.f. 01.11. 2017 as he proposed to do away with many type of discounts which showed that this had nothing to do with the GST rate reduction which came into effect from 15.11. 2017. The Respondent has also submitted that if the menu prices were considered instead of net sale realization the profiteered amount would be reduced by Rs. 15.72 Crore and if the incorrect menu prices for some SKUs were corrected the above amount would be further reduced by Rs. 4.64 Crore.

27. The Respondent vide his submissions dated 21.08.2018 has claimed that at the time of investigation he could not provide invoice wise details to the DGAP as the number of the invoices for the period between 15.11.2017 to 31.5.2018 was more than 4 Crore which he wanted to submit now to demonstrate that there was no profiteering by him to the extent the DGAP has calculated. The Respondent has also stated that he would have no objection if the order in this case was passed beyond the statutory period of 3 months due to recalculation of the profiteered amount on invoice

basis. He has also claimed that he had collected details of 72,88,764 invoices issued during the month of December, 2017 which had revealed that that there was no profiteering in respect of 50% cases and the recipients had got more benefit. He has further claimed that as per the methodology adopted by the DGAP the profiteered amount would be Rs. 5,19,76,634/- as against Rs. 7,05,08,258/- if invoice wise calculation methodology was adopted. He has further claimed vide his submissions dated 11.09.2018 that he had completed the invoice wise exercise to ascertain if he had profiteered during the period between 15.11.2017 to 31.05.2018 and it had been found that the calculation made by the DGAP was in excess of Rs. 10,73,67,089/- and therefore, the profiteered amount would stand reduced to Rs. 28,75,05,808/-. He has also contended that if the input credit loss was taken to be @ 7% (as claimed by the Respondent) instead of 5.59% (as computed by DGAP), then the profiteered amount would be reduced to approx. Rs. 20,69,10,706 under the invoice wise methodology. He has further contended that if the ITC loss was taken to be @ 7% along with inflation impact @1.99%, then the profiteered amount would further reduce to approx. Rs. 11,97,93,309/- under the methodology suggested by him. The Respondent has also mentioned that the total sales during the investigation for the period between 15.11.2017 to 31.05.2018 amounted to Rs. 17,38,58,14,330/- and as per the invoice wise analysis done by him the amount had come to Rs. 17,37,79,81,881/-, as he could not complete the invoice wise analysis of the sales value of Rs. 78,32,449/- due to paucity of time. He has also stated that this data should be treated as final.

28. Vide his further detailed submissions dated 17.09.2018 the Respondent has stated that the provisions of Section 171 of the above Act could not

be invoked in his case as he had reduced the rate of GST from 18% to 5% w.e.f. 15.11.2017. He has further stated that in the order dated 7.9.2018 passed by this Authority in the case of ***Pawan Sharma v. M/s Sharma Trading Company, Case No. 6/2018***, it had been held that where the tax rate was reduced from 28% to 18%, the Respondent should have reduced the price by the same amount by mathematical calculation from the MRP at which the goods were sold before such reduction. Therefore, the Respondent has asserted that by following the ratio laid down in the above case the Respondent had also duly discharged his responsibility by reducing the rate of tax from 18% to 5%. He has further asserted that the he had not received any additional benefit of ITC rather the benefit of ITC was denied to him w.e.f. 15.11.2017 which had resulted in loss to him. The Respondent has also contended that he had increased the prices of some of the SKUs due to the denial of the ITC and on account of other commercial grounds which this Authority could not examine as such issues were not covered under the provisions of Section 171. He has further contended that the present proceedings had been launched as reduction in tax rate and denial of ITC had occurred simultaneously and in case the rate of tax would have remained the same and the ITC would have been denied, then these proceedings would not have been started. He has also claimed that reduction in the tax rate and denial of ITC should be taken as separate and unrelated events and in case it was done his case would not fall under the ambit of Section 171. He has further claimed that when the increase in prices made by a supplier, due to reasons other than mentioned in Section 171 is investigated and disallowed by this Authority or the DGAP they become price regulating bodies which is beyond the

scope of Section 171. He has also stated that a supplier took in to account various factors like direct and indirect costs, demand & supply, customer perception, competition, product positioning, legal compliances and profit, etc. while fixing the prices which had been ignored by the DGAP while calculating profiteering. The Respondent has further stated that the law prohibited profiteering and this Authority could determine the same in case a supplier earned profit due to reduction in the rate of tax however, when he reduced the rate of tax and increased his prices due to denial of ITC or due to other commercial reasons it could not be termed as profiteering and any restriction on price increase would amount to 'price control' or 'price regulation' which would violate the freedom of trade and business guaranteed under Article 19 (1) (g) of the Constitution. He has also contended that in his case the profiteered amount had been calculated till May 2018 and he was not sure till what period he could not increase his prices so as not to invite anti-profiteering provisions and hence it could be said that these provisions would restrict his right to do business indefinitely.

29. The Respondent has also submitted that present proceedings had been launched in violation of the principles of natural justice as no show cause notice had been issued to him intimating what action was contemplated against him. He has further submitted that under Rule 133 of the CGST Rules, 2017 this Authority was competent to pass any order mentioned in the above Rule against the offenders who violate Section 171. He has also stated that the order passed under Section 171 would determine the rights and liabilities of the registered person which will entail civil and penal consequences, however, Rule 133 did not stipulate issuance of a show cause notice to the violators of Section 171 before passing of an

order under the above Rule and hence it was violative of the principle of *audi alteram partem* as the person against whom any action is proposed to be taken must be informed in writing of such action. He has also claimed that the Authority has treated the Report of the DGAP as the show cause notice which was not correct and he should have been served with a detailed show cause notice otherwise he could not defend himself. He has also cited the cases of ***Canara Bank & others v. Debasis Das & others (2003) 4 SCC 557, Uma Nath Pandey & others v. State of UP (2009) 12 SCC 40, Collector of Central Excise v. ITC Ltd. 1994 (71) ELT 324, Vasta Bio-Tech Pvt. Ltd. v. Assistant Commissioner 2018 (360) ELT 234 , Dharampal Satyapal Ltd. v. Deputy Commissioner of Central Excise 2015 (320) ELT 3, Anrak Aluminium Ltd. v. Commissioner 2017 (4) GSTL 248 and Goyal Tobbaco v. Commissioner 2015 (329) ELT 619*** in his support.

30. The Respondent has also claimed that the rate of tax was reduced from 18% to 5% without benefit of ITC as per the Notification No. 46/2017-CT (Rate) dated 14.11.2017 for restaurant services and on 14.11.2017 he had reversed an amount of Rs. 7.73 Crore which was available on the closing stock and Rs. 37 Lakh on account of the common credit related to exempted supplies. He has further claimed that he used to increase prices of all SKUs 2-3 times in a year between 5% to 7% due to commercial reasons, which was not same for all the SKUs. He has also contended that he used to increase his prices between July-November every year which he had deferred due to implementation of the GST. The Respondent has further contended that he had suffered a loss of Rs. 60.57 Crore by not uniformly increasing prices of all the SKUs during the relevant period. He has also submitted that the DGAP in Annexure-23 of

his Report had admitted that in respect of 223 SKUs there was no profiteering and the price increase on them was less than the permissible limit of 5.59% due to which the loss was of Rs. 60.57 Crore. The Respondent has further submitted that he had not increased the prices of the above SKUs equal to the permissible limit and hence the customers had benefited to the tune of about Rs. 60.57 Crore. He has also argued that in the absence of any methodology on passing on the benefit of reduction in the rate of tax and benefit of input tax credit, the Respondent had decided not to increase the prices uniformly. The Respondent has also argued that there has been no discrepancies during the availing of the ITC by him and hence the DGAP should have stayed the investigation in case he had referred any such discrepancies to the jurisdictional authorities, whereas the availing of TRAN-1 credit was held to be correct by such authorities.

31. The Respondent vide his additional submissions dated 05.10.2018 and 22.10.2018 has pleaded that the findings given in the case of ***Jijrushu N. Bhattacharya v. M/s NP Foods*** by this Authority on 27.09.2018 were squarely applicable in the present case, hence the Respondent has requested for dropping the current proceedings, by stating that the increase in the basic prices was commensurate with the loss of ITC. The claim made by the Respondent is tabulated as below:-

S. No.	Particulars	NP Foods Order	Paragraph of NP Foods Order	Present case of Respondent
1.	Service	Restaurant Service	Para-1	Restaurant Service
2.	Business Model	Franchisee of Subway Systems India Pvt Ltd.	Para-5	Franchisee of Dominos Pizza Overseas Franchising B.V.
3.	Consideration for	Royalty on Net Turnover	Para-5	Royalty on Net Turnover

	Franchisee			
4.	Fixation of Price	By Franchisee	Para-5	By Franchisee
5.	Procurement of Raw material	By Franchisee	Para-5	By Franchisee
6.	No. of Outlets	Approx. 600	Para-6	Approx. 1128
7.	Reduction in rate of tax	GST reduced from 18% to 5% without ITC vide Notification No. 46/2017-Central Tax Rate	Para-1	GST reduced from 18% to 5% without ITC vide Notification No. 46/2017-Central Tax Rate
8.	Complaint	'S Hara BharaKabab Sub'	Para-1	Medium Veg Pizza and Garlic Bread
9.	Increase in base price	Rs. 130/- to 145/-	Para-1	Pizza: Rs. 440 to Rs. 450/- (Type A) Garlic Bread: Rs. 129/- to 139/-
10.	Period examined for loss of ITC	July 2017 to November 2017	Para-4	July 2017 to October 2017 (Request by Noticee for considering period of July 2017 to 14th November 2017)
11.	Period for comparison for outward taxable supplies	15.11. 2017 to 28.02.2018	Para-4	15.11. 2017 to 31.05.2018
12.	Loss of ITC as per DGAP	11.80%	Para-4	5.59% (ITC Loss will be 7% if November is also taken into account)
13.	Average increase in base prices	12.14%	Para-4	4.49%
14.	Difference between Average increase in base price and loss of ITC (S.No.13-S.No 12)	0.34%	Derived	(-) 1.10%

32. The DGAP in his supplementary Reports dated 17.08.2018, 06.09.2018, 01.10.2018 and 31.10.2018 filed in response to the submissions made by the Respondent has stated that the claim of the Respondent that

Applicant No. 1 had filed complaint for Medium Veg Pizza only and there was error in referring the matter by the Standing Committee on Anti-profiteering to the DGAP by comparing two different types of Medium Veg Pizzas was not sustainable as the above applicant had filed application w.r.t. restaurant service in which certain products (here Medium Veg Pizza, Garlic Bread & Coke) were bought by him post reduction in the GST rate.

33. The DGAP has also stated that Section 171 (1) which 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.*" (Emphasis supplied) required that in the event of benefit of ITC or reduction in the rate of tax, there must be a commensurate reduction in the *prices* of ***any supply*** *of goods or services*. The DGAP has further stated that during the investigation, it had come to his notice that apart from the products mentioned in the application, the Respondent had supplied other products also on which there was benefit of reduction in the rate of tax but the Respondent had not passed on such benefit. Further, the DGAP has claimed that he had concluded investigation w.r.t. only contravention of the provision of Section 171 of the CGST Act, 2017 and not for the other non-compliances by the Respondent such as availment of Transition Credit twice, difference between GSTR-1 returns, GSTR-3B returns and the Sale Registers and wrong availment of ITC etc. for which the jurisdictional authorities were requested to safeguard the interest of revenue.

34. The DGAP has also mentioned that the Respondent was under legal obligation to pass on the benefit of ITC or reduction in the rate of tax by

way of commensurate reduction in the price of each and every supply of goods or services and by following the same rule, he had requested the Respondent to provide invoice-wise details of outward taxable supplies vide his letters dated 15.03.2018 and 27.03.2018, whereas the Respondent, vide his letter dated 20.03.2018 had expressed his inability to provide the same due to its voluminous nature and had requested to provide it in summarized manner on product-wise and state-wise basis or under any methodology as was deemed fit by the DGAP.

35. The DGAP has also submitted that the Respondent vide his letter dated 04.04.2018 had submitted Product/SKU wise sales for the period w.e.f. 15.11.2017 to 28.02.2018 which were considered by him after accepting request of the Respondent and accordingly he had asked the Respondent to submit the product/SKU-wise sales for the period w.e.f. 01.10.2017 to 14.11.2017 vide his letter dated 11.04.2018 and the details for the period between March 2018 to May 2018 vide his letter dated 26.06.2018. He has further submitted that the anti-profiteering provisions were for the benefit of the recipients as each recipient must get benefit of reduction in the rate of tax or increase in the ITC on each and every supply of goods or services or both. Therefore, he has submitted that he was justified in applying the provisions of anti-profiteering at the Product/SKUs level in the absence of invoice-wise outward taxable supplies data.

36. The DGAP has also claimed with respect to the allegation of the Respondent that profiteered amount had been inflated by adding 5% GST by stating that the prices include both basic price and also the tax charged on them and therefore, any excess amount collected from the recipients amounted to profiteering which must be returned to the recipients, and in

case the recipients were not identifiable, the same was required to be deposited in the CWF. He has further claimed that the anti-profiteering law did not offer a supplier of goods and services, flexibility to pass on the benefit of ITC or reduction in the rate of tax on one product, say 'X' by reducing the prices of any other product, say 'Y'. The DGAP has also intimated that the Respondent vide his letter dated 07.02.2018 had submitted that he was engaged in the business of operating quick service restaurants under the brand name "Domino's Pizza" and had a pan-India presence with 1,128 outlets across 31 States and the Union Territories in which they were registered under the GST and he was maintaining consistency across all the outlets in everything right from the taste to overall experience and the prices of all the products as displayed in the menus, were exclusive of all taxes/GST (except in Maharashtra prior to 01.07.2017), therefore, the product-wise prices of the Respondent were same across the country. He has further intimated that although he had asked for the details of invoice-wise outward taxable supplies for all the GSTINs reconciling with the GSTR-1/3B return but the Respondent had submitted monthly consolidated Product/SKU-wise sale details which were considered after accepting Respondent's request regarding his inability to provide the requisite data.

37. The DGAP has also submitted that he had not examined the cost components included in the base prices and he had only added the denial of ITC to the pre rate reduction base prices and such reduction could obviously only be in absolute terms, so that the final price payable by a consumer must get reduced. Thus he has claimed that the legal position on this account was unambiguous and could be summed up as follows:

(a) A supplier of goods or services must pass on the benefit of ITC or reduction in the rate of tax to the recipients by commensurate reduction in prices.

(b) The law does not offer a supplier of goods and services any flexibility to *suo moto* decide on any other modality to pass on the benefit of ITC or reduction in the rate of tax to the recipients.

The DGAP has also contended that the increase in the cost of inputs and input services was a factor for determination of prices but this factor was independent of the output GST rate and it couldn't be asserted that the elements of cost unrelated to GST were affected by the change in the output GST rates, therefore in terms of Section 171 of the CGST Act, 2017, the claim of increase in cost of inputs and input services had not been considered.

38. The DGAP has further replied that there seemed to be contradiction in the claim made by the Respondent of inflation of 1.99% with his profitability statement, as per the Table given below:-

(in Lakhs)

Particulars		FY 2016-17	% to Sales	FY 2017-18	% to Sales
Income from Operation	A	2,54,607		2,98,044	
Cost of Material Consumed	B	61,597	24.19%	75,143	25.21%
Total Variable Expenses	C	66,115	25.97%	69,855	23.44%
Total Variable Cost (Material + Van. Exp.)	D=(B+C)	1,27,712	**50.16%**	1,44,997	**48.65%**
Contribution	E= (A-	1,26,895	49.84%	1,53,047	51.35%

	D)				
Fixed Expenses including Depreciation	F	1,17,351	46.09%	1,23,995	41.60%
Profit before Other Income, exception items & tax	G=(E-F)	9,544	3.75%	29,051	9.75%
Add: Other Income	H	1,448	0.57%	2,272	0.76%
Profit Before Tax	**I=(G+H)**	**10,992**	**4.32%**	**31,324**	**10.51%**

Therefore, the DGAP has claimed that the Total Variable cost (D) had reduced from 50.16% in FY 2016-17 to 48.65% in FY 2017-18 i.e. by 1.51%. The DGAP has further claimed that the Respondent has submitted a certificate of increase in his employee benefit expenses by Rs. 27 Crore but after going through the submissions it was clear that the Respondent had saved Rs. 29.32 Crore in the FY 2017-18 even if inflation was not taken into account. Working of the same has been given in the Table below:-

Particulars		**Amount in Lakhs**
Income from Operation in FY 2016-17	A	2,54,607
Actual Fixed Employee Benefit Exp. In FY 2016-17	B	29,797
Actual Variable Employee Benefit Exp. In FY 2016-17	C	28,657
Ratio of Variable Employee Benefit Exp.	D=(C/A)	11.26%
Total Actual Employee Benefit Exp. In FY 2016-17	E= B+C	58,454
Income from Operation in FY 2017-18	F	2,98,044
Variable Employee Benefit Exp. Considering Same ratio of FY 2016-17	G= F*D	33,546
Fixed Employee Benefit Exp. Considering Same as of FY 2016-17	H=B	29,797
Total Employee Benefit Exp. Without considering any inflation	I=G+H	63,343
Actual Employee Benefit Exp.	J	
- Variable	K	29,616
- Fixed	L	30,795
Total Actual Employee Benefit Exp. In FY 2017-18	M=K+L	60,411
Net Benefit in 2017-18 even without considering any inflation	**N=I-M**	**2,932**

39. The DGAP has also submitted that the figures reported in Para 12 of the Investigation Report dated 16.07.2018 had been obtained from the financial statements published by the Respondent, therefore there was no dispute over them and they also didn't had bearing over the computation of profiteered amount and the above Para had been introduced only to address the Respondent's claim that he did not completely factor the loss of ITC in the increase in prices and did not consider inflation in the cost of inputs while determining the revised base prices and, therefore, faced a decline in his profit margins.

40. The DGAP has also stated that the day wise pattern of ITC availed by the Respondent during the period w.e.f. 1-14 November 2017 was as under:-

Date	Total ITC Availed	% of Total ITC Availed	ITC Reversed	Net ITC Availed	% to Total Net ITC Availed
A	B	C (%of B)	D	E=B+D	F (%of E)
1-Nov-17	31,39,376	0.90%	(52,281)	30,87,095	1.23%
2-Nov-17	60,50,031	1.74%	(1,56,024)	58,94,007	2.34%
3-Nov-17	58,21,864	1.68%	(2,03,475)	56,18,388	2.23%
4-Nov-17	38,14,921	1.10%	-	38,14,921	1.52%
5-Nov-17	37,53,056	1.08%	-	37,53,056	1.49%
6-Nov-17	34,76,983	1.00%	(4,746)	34,71,237	1.38%
7-Nov-17	52,22,267	1.50%	(12,779)	52,09,489	2.07%
8-Nov-17	76,99,658	2.22%	-	76,99,658	3.06%
9-Nov-17	121,75,526	3.50%	(41,659)	121,33,867	4.82%
10-Nov-17	76,83,972	2.18%	(32,495)	75,51,477	3.00%
11-Nov-17	74,03,363	2.13%	(18,37,604)	55,65,759	2.21%
12-Nov-17	119,66,406	3.44%	(2,15,162)	117,51,244	4.67%
13-Nov-17	439,67,943	12.66%	(1,08,330)	438,59,614	17.43%
14-Nov-17	2253,35,459	64.86%	(931,32,430)	1322,03,029	52.54%
Grand Total	**3474,09,825**	**100%**	**(957,96,986)**	**2516,12,839**	**100%**

Therefore he has argued that the ITC of Rs. 22.53 Crore (64.86% of ITC availed in November, 2017) was availed on a single date i.e. on 14.11.2017 which may not be possible to avail on a single date and the actual date of availment couldn't be ascertained in the absence of specific details. He has further argued that as per the ITC Register, net ITC of Rs. 25,16,12,839 was availed whereas as per the GSTR-3B return, the net ITC availed was Rs. 26,05,88,014, thus, the Respondent had availed excess ITC of Rs. 89,75,175/- in the month of November, 2017 which was informed to the jurisdictional authorities for necessary action. The DGAP has also claimed that the Respondent has availed Transitional ITC of Rs. 1,84,27,561/- in the TRAN-1 statement as has been given in the table below:-

GSTIN	State	Nature of Credit	Amount
07AABCD1821C1ZD	Delhi	SGST TRAN-1 Credit	22,56,681
09AABCD1821C1Z9	Uttar Pradesh	CGST TRAN-1 Credit	126,56,801
09AABCD1821C1Z9	Uttar Pradesh	SGST TRAN-1 Credit	4,62,043
27AABCD1821C1ZB	Maharashtra	SGST TRAN-1 Credit	29,56,105
33AABCD1821C1ZI	Tamil Nadu	SGST TRAN-1Credit	86,131
Total			**1,84,27,561**

The DGAP has further claimed that the Respondent had also availed Transitional Credit of Rs. 1,84,23,658/- in GSTR-3B as the extract of ITC Register as given below showed:-

Account Code	Invoice Date	Invoice No.	SAP Document Number	SAP Document Date	Tax Amount	Tax Type	State
21600020	14-Nov-17	TRANS 1 ST	100673835	14-Nov-17	126,62,696	CGST Receivable	Uttar Pradesh

21800021	14-Nov-17	Maharashtra	100629884	14-Nov-17	29,56,105	SGST/UTGST Receivable	Maharashtra
21800026	14-Nov-17	Delhi	100630214	14-Nov-17	22,56,681	SGST/UTGST Recl(C.G.)	Uttar Pradesh
21800026	14-Nov-17	Tamil Nadu	100630221	14-Nov-17	86,131	SGST/UTGST Recl(C.G.)	Uttar Pradesh
21800026	14-Nov-17	Uttar Pradesh	100630224	14-Nov-17	4,62,043	SGST/UTGST Recl(C.G.)	Uttar Pradesh
		Total			**184,23,658**		

41. The DGAP has further mentioned that as the Respondent had already availed ITC on the original purchase of inputs, the same has been considered in the computation of denial of ITC to net turnover and the output tax liability on inter-unit branch transfer had been excluded from ITC on one hand and inter-unit branch transfer turnover has been excluded from the outward taxable turnover on the other hand which neutralised the impact of Branch transfer transactions from the computation. Further the ITC register contained only the value of ITC availed whereas the base prices on which the ITC was availed were not available in the ITC register.

42. The DGAP has also reported that Section 15 (1) of the CGST Act, 2017 reads as *'The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.'* and Section 15 (3) (a) of the above Act provided that the value of the supply would not include any discount which had been given before or at the time of the supply if such discount had been duly recorded in the

invoice issued in respect of such supply, therefore, the GST was chargeable on actual transaction value after excluding any discount both conditional as well as unconditional and therefore, for the purpose of computation of profiteering menu price or MRP couldn't be considered whereas actual transaction value was the correct amount which had been considered for such computation, as the menu price was the maximum price at which an item might be sold but it was not the actual sale price. The DGAP has also argued that the SKU wise net realization from 01.10.2017 to 14.11.2017 (45 days) period was compared with post rate reduction sale from 15.11.2017 to 31.05.2018 to consider the magnitude of the various discounts offered by the Respondent both prior to the GST rate reduction and post GST rate reduction. He has further argued that vide e-mail dated 11.07.2018 the Respondent had informed that the net sales considered for computing the average sale price were arrived at after factoring in the discount given to the customers at the time of sales which were of multiple kinds and could range up to 50% and the most common discount scheme i.e. Everyday Value Offers (EDVs), which typically involved offering a lower price for purchase of at least 2 pizzas, was limited to medium pizzas from April, 2017 onwards and now it had been extended to regular pizzas from March, 2018 and currently, the scheme was applicable on a purchase of minimum 2 pizzas, thus, the average sale realization for certain most selling items viz. regular pizzas had come down drastically during March 2018 to May 2018 which also neutralized the profiteering made by the Respondent on these items w.e.f. 15th Nov, 2017 to February, 2018 and therefore, the consideration of the actual selling price instead of menu price was justified in accordance with the provisions of the above Act. The DGAP has also mentioned that the

facts of the case of NP Foods supra were different from that of the facts of the Respondent's case and hence both could not be compared.

43. We have carefully considered the Reports submitted by the DGAP, the Respondent's submissions and all the other material placed on record and it is revealed that the Respondent is engaged in the business of operating quick service restaurants under the name and style of 'Domino's Pizza' and has a pan India presence with 1,128 outlets across 31 States and Union Territories in which the Respondent is duly registered under the GST and all his outlets were maintaining consistency from taste to overall experience and the prices of all his products as shown in the menu were similar throughout his restaurants exclusive of the GST. It has also been admitted by the Respondent that the Central Govt. vide its Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017 had reduced the rate of GST from 18% to 5% on restaurant services with the stipulation that no ITC would be available on the goods and service supplied under the above services, accordingly, 398 items which were being supplied by the Respondent were impacted with the reduction in the rate of tax, the benefit of which was required to be passed on by the Respondent to his customers by commensurate reduction in his prices as per the provisions of Section 171 of the CGST Act, 2017. It is also been revealed that the Applicant No. 1 had alleged through his complaint dated 29.11.2017 that he had purchased two items from the Respondent on 20.10.2017 before the rate of tax was reduced and again on 19.11.2017 when the rate had been reduced however, the Respondent had increased the base prices of both these items and had charged the same prices which he was charging before the tax reduction and hence

he had been denied the benefit of tax reduction. The Respondent has alleged that the Pizza ordered by the Applicant No. 1 vide invoice dated 20.10.2017 (prior to reduction in GST rate) was *'Medium Veg Extravaganza Pizza Normal Crust Hand Tossed (Type A)*, whereas the Pizza ordered by the above Applicant vide invoice dated 19.11.2017 (post reduction in GST rate) was *'Medium Veg Extravaganza Pizza Pan Crust'* (Type B), therefore, the complaint was made by the above Applicant in respect of two distinct and incomparable products and hence he could not be held accountable for profiteering as their prices could not be compared. However, it is revealed from the record that the Respondent had himself admitted before the DGAP, as has been mentioned in Para 4 (e) supra that the price of Type A Pizza was Rs. 440/- per unit and that of Type B was Rs. 470/- per unit respectively up to 14.11.2017, before the rate of tax was reduced and was Rs. 450/- and Rs. 485/- per unit respectively post 14.11.2017 after the rate of tax was reduced. Hence there was increase in the base price by Rs. 10/- in respect of Type A Pizza and Rs. 15/- in respect of the Type B Pizza. Perusal of Annexure-23 attached by the DGAP with his Report also shows that the base prices of both these products were in fact increased by the amount shown above by the Respondent. Therefore, even if it is admitted that both the items of Pizza ordered by the above Applicant were distinct there is hardly any doubt that the Respondent had increased the base prices of both of them as per his own admission which he should not have done arbitrarily. However, the Respondent has duly admitted that he had increased the base prices in respect of the second item viz. Garlic Bread purchased by the above Applicant from him after the tax reduction. Therefore, there was sufficient ground for the Screening Committee as well as the DGAP to

investigate the allegation of profiteering made against the Respondent and the objection raised by the Respondent on this ground is completely wrong and frivolous and hence the same cannot be accepted. The contention of the Respondent that the DGAP had gone beyond his jurisdiction to investigate all the 393 products is also not tenable as the Applicant No. 1 had specifically mentioned in the last Para of his complaint that "Need your help to investigate pricing of these kind of large organisations where the prices are inflated with the reduction in the GST" therefore the DGAP had jurisdiction to extend his investigation as the Respondent happened to be one of such large organisation which had obligation to pass on the benefit of tax reduction. Further, while investigating when it came to the knowledge of the DGAP that apart from the product mentioned in the complaint, the Respondent had supplied other products also on which the benefit of reduction in the rate of tax was required to be passed on but the Respondent had not passed it, the DGAP was legally bound to take its cognizance as no infringement of Section 171 can be allowed on the ground that no complaint had been made in respect of a particular product(s). The facts of the cases of ***Dinesh Mohan Bhardwaj Properietor U. P. Sales & Services v. M/s Vrandavaneshwree Automotive Private Limited 2018-VIL-01-NAA*** *and* ***Rishi Gupta v. M/s Flipkart Internet Pvt. Ltd. 2018-VIL-04-NAA*** quoted by the Respondent in his support are entirely different than the facts of the present case as in the former case the benefit of tax reduction was given to the applicant and in the latter case M/s Flipkart was not the supplier and there was no evidence to investigate rest of the products being sold by them and hence both these cases do not help the Respondent.

44. It is also revealed from the record that the Respondent had been selling 393 products while supplying restaurant services before and after 15.11.2017 and he had increased the base prices after the reduction in the rate of tax w.e.f. 15.11.2017, in respect of 314 items which constituted 79.90% of 393 items as is apparent from Annexure-21 attached with the Report. It is further revealed that the GST rate of 5% had been charged on the increased base prices of these 314 items, after the reduction in the rate of tax w.e.f. 15.11.2017, however, because of the increase in the base prices the cum-tax price paid by the consumers had not been reduced commensurately for all the above items therefore the benefit of reduction had not been passed on by the Respondent in contravention of the provisions of Section 171 of the Act.

45. It has also been found from the perusal of the record that while computing the ITC as a percentage of the total taxable turnover of the Respondent, the ITC for the period w.e.f. July, 2017 to October, 2017, as mentioned in the GSTR-3B return, had been adjusted by excluding the amount of ITC of tax paid on inter-unit branch transfers as per the sale register and while determining the net taxable turnover of the Respondent during the period from July, 2017 to October, 2017, the total taxable turnover excluding the inter-unit branch transfers as per the GSTR-1 returns filed for the period from July, 2017 to October, 2017 had been taken into consideration. It has further been found that the ratio of ITC to the net taxable turnover had been taken for determining the impact of denial of ITC which was available to the Respondent till 14.11.2017, accordingly, ITC amounting to Rs. 55.50 Crore was available to the Respondent during the period between July, 2017 to October, 2017 which was 5.59% of the net taxable

turnover of Rs. 993.18 Crore of the restaurant services supplied during the same period as has been calculated in Para 10 supra.

46. It is also clear from the record that the Respondent during the period between 15.11.2017 to 31.05.2018, had increased the base prices by more than 5.59% i.e. by more than what was required to offset the impact of denial of ITC in respect of 170 items, from 5.75% to as high as 84.55%, out of total 393 items sold during the same period and therefore, in respect of these items the commensurate benefit of reduction in the rate of tax from 18% to 5% had not been passed on to the customers by the Respondent. It is also established after analysis of the impact of denial of ITC and the details of the outward supplies that the amount of net higher sale realization due to increase in the base prices of the services, despite reduction in the GST rate from 18% to 5%, with denial of ITC or in other words, the profiteered amount was Rs. 41,42,97,635/- as per the very detailed, exhaustive and meticulous calculations made vide Annexure-23 of the Report by the DGAP. This amount was inclusive of Rs. 5.65/- which had been profiteered by the Respondent from the Applicant No. 1.

47. The Respondent has alleged that no methodology has been prescribed for determination and calculation of profiteering. In this connection it would be relevant to point out that this Authority has already notified the 'Procedure and the Methodology' vide its Notification dated 28.03.2018 under the provisions of Rule 126 of the CGST Rules, 2017 which is available on its website. As far as the method of calculation of profiteered amount is concerned no fixed method can be prescribed as the various parameters which are required to be taken in to account while making such computation vary from industry to industry and from one product to

another. The factors which need to be considered while determining profiteering in the case of a real estate builder cannot be applied in the case of a consumer goods industry and hence the computation varies from sector to sector and from product to product. Within various products also the products which are sold on MRP and the products which are sold under the cost of production methodology the method of calculation of the profiteered amount will vary. Similarly in the case of services and within services also in the case of construction services it may differ depending upon the land cost from the other services, therefore the commensurate reduction in prices as stipulated in Section 171 will vary not only between the goods and the services but also within the various types of goods and services hence, no fixed methodology can be 'prescribed' and it can only be 'determined' in each case. The provisions of Section 171 are further very explicit which state that the recipient has to be given the benefits of tax reduction and the ITC on every supply commensurate with such reduction or the ITC. Hence, it was duty of the Respondent to ascertain on which of his products the rate of tax had been reduced and after taking in to account the impact of denial of ITC to what extent the prices should have been increased. The whole exercise needed no directions from this Authority as it involves simple mathematical calculation which the Respondent has been carrying on repeatedly at the time of fixing his prices. Hence, the contention of the Respondent made on this ground is unreasonable and hence it cannot be considered.

48. The contention of the Respondent that he had revised the prices of all the SKUs as a normal business decision due to the various factors, like rise in the prices of the raw material due to inflation and increase in the cost due

to non-availability of the ITC which was available earlier, is also not borne out from the analysis of the data supplied by him. He has claimed that the impact on prices due to inflation was to the extent of 1.99% however as per the calculation made by the DGAP on the basis of the data supplied by the Respondent himself, which has been mentioned in Para 38 supra there has been reduction in the Total Variable Cost from 50.16% in the FY 2016-17 to 48.56% in the FY 2017-18 i.e. by 1.51% which falsifies the claim made by the Respondent that he had to raise his prices due to inflation. The Respondent has also claimed rise in his expenses on employee benefits by Rs. 27 however, the DGAP has demonstrated vide Table mentioned in Para 38 above that in fact he had made saving of Rs. 29.32 Crore in the FY 2017-18 even if inflation was not taken in to account. Hence both the above contentions of the Respondent cannot be accepted being factually incorrect. The Respondent has also claimed that he used to raise prices 2-3 times in a year usually in July-September however, he has produced no evidence to prove his contention. There was no reason for him not to increase his price between July-September as implementation of the GST had no connection with the price rise on the basis of inflation. The Respondent was well aware of the inflation which he had encountered during the FY 2016-17 and therefore, he should have increased his prices anytime from April to October 2017 and had no reason to increase them from the midnight of 14/15th November, 2017 coinciding with the reduction in the rate of tax which shows that his action was malafide and illegal. Therefore, there is no doubt that he had raised the prices w.e.f. 15.11.2017 only with the intention of appropriating the benefit of tax reduction by denying the same to his customers. Mere charging of tax @ 5% after the tax reduction cannot be taken to mean that

he had passed on the benefit of such reduction when he had increased the base prices to negate the impact of tax reduction. The Respondent has also cited the case of ***Kumar Gandharv*** v. ***KRBL Ltd. 2018-VIL-02-NAA*** decided by this Authority in his support however the same does not apply in this case as there has been no effect of inflation in the above case as well as the purchase price and the rate of tax had been increased rather than reduced.

49. The Respondent has also raised objection against the finding of the DGAP that there was a sharp increase in the profits made by the Respondent without corresponding increase in the sale of the products. However perusal of the Financial Statements published by the Respondent himself as has been mentioned in Para 7 supra shows that during the Quarter Ending (QE) March 2018 as compared to the QE March 2017 profits had increased by 406% while the sales had increased only by 27% and the profits during the year 2017-18 had increased by 185% whereas the sales had shown increase of 17% as compared to the previous year. There is no ground not to rely upon the Financial Results certified by the Respondent himself and hence it can be safely concluded that this abnormal increase in the profits had occurred due to increase in the base prices and not due to increase in the sales. The theory of break-even floated by the Respondent is completely false and wrong as there is no correlation between the figures of sales and the profits which have been supplied by the Respondent and by no stretch of imagination increase in sales by 17% during the FY 2017-18 can result in increase in profits by 185%. Therefore, the claims made by the Respondent vide Exhibit-8 of his submissions are wrong and hence cannot be relied upon.

All claims of having suffered losses, made by the Respondent due to denial of ITC, are also not supported by financial statements and hence they are completely unworthy of reliance.

50. The Respondent has further claimed that the DGAP had wrongly computed the amount of permissible increase due to non-availability of ITC as 5.59% which should be 7% as the DGAP has not taken into account the entire ITC which was available to him and had also disallowed the ITC which he could not have done. However, perusal of the record shows that the DGAP has rightly not allowed ITC on the invoices issued by M/s Neel Kamal and M/s Contract Advertising (India) Pvt. Ltd. as they were not in his possession before 15.11.2017, the date from which the Respondent was not eligible to claim ITC. It is also apparent from the perusal of the details supplied by the DGAP mentioned in Para 39 supra that the Respondent had claimed ITC of Rs. 1.84 Crore twice as per TRAN-1 Statement as well as GSTR-3B return and hence the same has been rightly not taken in to account. There is also difference in the amount of ITC as per the ITC register and the GSTR-3B return and the Respondent has availed excess ITC of Rs. 89,75,175/- in the month of November, 2017. The Respondent has also availed ITC of Rs. 25,16,12,839/- on a single day on 14.11.2017 which does not appear to be correct as has been shown in Para 39 supra. The DGAP has considered the ITC on the basis of the record submitted by the Respondent himself and hence there appears to be no mistake in calculating the same. Therefore, the claim made by the Respondent that he was entitled to increase his prices by 7% instead of 5.59% due to denial of ITC is completely exaggerated and hence it cannot be accepted.

The Respondent has also claimed that he had calculated the above ratio

of 7% on the basis of P & L method adopted by the Malaysian Govt. but he has not explained the factors which he had taken in to account while applying the above method and hence the calculation made by him cannot be taken cognizance of. There was also no occasion for the DGAP to stop investigating the profiteering done by the Respondent on the ground that he had referred the issues of ITC to the jurisdictional authorities as this had no impact on such computation as the issue being investigated by the DGAP was limited to the passing of the benefit and hence the objection raised by the Respondent on this ground is frivolous and cannot be accepted.

51. The Respondent has also submitted that the DGAP has wrongly used average sales realization for calculating the profiteered amount instead of the menu prices. This contention of the Respondent cannot be accepted keeping in view the provisions of Section 15 (1) of the CGST Act, 2017 which says that "*The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.*"

Further, Section 15 (3) (a) provides that the value of the supply shall not include any discount which is given before or at the time of the supply, if such discount has been duly recorded in the invoice issued in respect of such supply.

52. Therefore, as per the above provisions of Section 15 of the above Act, the value of the supply made by the Respondent can be calculated only on the basis of the actual price paid and not on the menu prices as generally

products are not sold on the menu prices and it is the price up to which products can be sold. There is also no reason to add the discounts offered by the Respondent for calculating the total turnover as per the above provision and hence the claims made by the Respondent in this regard are frivolous and against the specific provisions of the CGST Act, 2017 and hence they cannot be acceded to. The DGAP has also rightly compared the SKU wise net realization from 01.10.2017-14.11.2017, prior to the rate reduction, with the average net realization from 15.11.2017 to 31.5.2018, subsequent to the rate reduction to consider the impact of the various discounts which were claimed to affect the calculation of net realization by the Respondent and hence there was no ground to make such comparison between the period of 01.10.2017- 14.11.2017 of 45 days with the period between 01.11.2017- 14.11.2017 of 14 days. The comparison made by the DGAP is based on the data supplied by the Respondent himself and it does not discriminate him as the DGAP has taken average selling price of the products in to his account and hence the same cannot be rejected. He has also cited the case of ***Rishi Gupta supra*** in this regard in which the facts as narrated above were different which cannot help his case.

53. Perusal of the submissions made by the Respondent shows that he is labouring under the utterly wrong impression that the central focus of Section 171 of the Act was he and his products whereas the central focus is the recipient or the customer who is required to be given both the above benefits commensurately when he buys even a single product. Denial of these benefits would be hit by Article 14 of the Constitution if he is not given them on the ground that the Respondent had passed on the

benefit on a particular product in place of another product which he may not buy. Each and every customer is entitled to receive both the above benefits without discrimination. Therefore, the provisions of anti-profiteering have to be applied at each and every Product/SKU level and the Respondent has no unfettered discretion to allow them selectively or as per his own whims and fancies. The Respondent must remember that the benefit of tax reduction and ITC has been granted by the Central and the State Governments to the public out of their own revenue and he is not required to pay it from his own account and therefore, he cannot pocket it on one or the other pretext. The Respondent also appears to be quite ignorant of the fact that on the one hand he is claiming that the anti-profiteering provisions made under Section 171 amount to price regulation and on the other hand he is supporting the 'Price Control and Anti-Profiteering (Mechanism to Determine Unreasonably High Profit) (Net Profit Margin) Regulations, 2014, promulgated by the Malaysian Govt. and the 'Net Dollar Margin Rule' of the Australian Govt. both of which regulate prices whereas the above Section does not provide for such regulation and its only aim is to pass on the benefit of tax reduction and ITC without going into the issues of price and profit fixation. The Respondent has relied on the case of ***Commissioner of Income Tax Bangalore v. B. C. Srinivasa Setty (1981) 2 SCC 460*** to contend that this Authority could not determine profiteering in the absence of methodology by stating that in this case the Hon'ble Supreme Court had held that the charging section was not attracted where corresponding computation provision was inapplicable. In the above case the issue was whether the goodwill generated in a newly commenced business was an asset within the terms of Section 45 of the Income Tax Act, 1961 and

whether this could be considered as capital gain subject to the Income Tax. The Hon'ble Supreme Court had held that Section 45 of the Income Tax Act had defined capital gains under which the goodwill generated in a newly commenced business as an asset was not part of the definition. However, in the present case the law is clear and unambiguous. The reduction in the rate of tax comes into effect from the date of the Notification and this reduction in tax has to be passed on to the recipients as per the provisions of Section 171 of the Act. Therefore the above case does not help the Respondent. The case of ***Eternit Everest Ltd. v. Union Of India 1997 (89) ELT 28 (Mad.)*** pertained to Section 11 (D) of the Central Excise and Salt Act, 1944 in which the Hon'ble Supreme Court had held that 'We find and notice a conspicuous omission in Section 11 (D) of the Act of any provision whatsoever to initiate any proceedings or entertain and adjudicate upon any dispute with reference to the liability to pay any amount set to have been collected by a person .....', however in the instant case Section 171 of the CGST Act, 2017 read with the CGST Rules makes it very clear that once a complaint is filed the same is prime-facie examined by the Screening Committee/ Standing Committee and then forwarded to the DGAP for detailed investigation. On submission of the investigation report by the DGAP this Authority following the principles of natural justice determines whether any profiteering as alleged by the complainant has been established. Hence full-fledged mechanism is in place as far as the anti-profiteering provisions are concerned; therefore the above case does not advance the case of the Respondent.

54. The allegation of the Respondent that the profiteered amount has been inflated by adding 5% GST which he had collected on the increased

prices and deposited with the Govt. is also not tenable as the above amount has been rightly held to be the profiteered amount by the DGAP since the benefit of tax reduction has been denied to the recipients by the Respondent by charging more prices than what he could have charged and on which additional GST has also been collected. Thus the Respondent had not only forced the recipients to pay more price over the permissible limit but has also compelled them to pay additional GST on this amount and had he not done so the recipients would have paid less price. As they have paid additional GST which they were not required to pay, it amounts to denial of passing on of the benefit to them. The Respondent must remember that Section 171 requires passing of the benefit of tax reduction to the recipients or the customers and does not authorise the Respondent to collect additional GST illegally thus negating the benefit which has been given by the Government from its own revenue to the customers. Therefore, the DGAP has rightly concluded that any excess amount of GST collected from the recipients amounts to profiteering which must be returned to the recipients, and in case recipients are not identifiable, the same should be deposited in the CWF. Depositing of the profiteered amount in the CWF does not amount to levy and collection of tax as has been alleged by the Respondent as it is not tax.

55. The Respondent has also claimed that the profiteered amount should be calculated by considering him as an entity and not on each SKU. However, this contention of the Respondent is irrational and against the basic provisions of Section 171 which require him to pass on the benefit of rate reduction to every recipient on every supply. In case this

computation is made as has been suggested by the Respondent it would not be possible to ensure that the benefit has been passed on to each customer as the calculation would have to be made for all the SKUs together irrespective of the fact whether the base price of a product has been reduced or increased. The Respondent is under legal obligation to pass on both the above benefits to each customer and he cannot deny benefit to one customer on the ground that he has as an entity passed on the benefits to entire group of customers. Similarly benefit due to a customer cannot be denied to him on the claim that the same has been passed on to another customer on another product. There is no justification in the claim of the Respondent that the DGAP should also have taken in to account those SKUs in the case of which the price increase was within the permissible limit of 5.59%, since there was no profiteering in their case they were not required to be considered. Even if each restaurant owned by the Respondent was assessed separately for profiteering the conclusion would have been the same as the Respondent was charging the same prices in each of his outlets and was also centrally fixing the prices and hence he has been rightly assessed for profiteering collectively. There is also no justification for 'netting off' the increases and the decreases in the prices of the various products as the benefit is required to be passed on each SKU and profiteering is required to be computed only in respect of those SKUs where prices have been increased more than 5.59%.

56. The Respondent has admitted that the word 'commensurate' as per its dictionary meaning meant appropriate, adequate and proportionate therefore, it is clear that every recipient must receive appropriate,

adequate and proportionate benefit of tax reduction which cannot be done in case the Respondent is treated as a single entity and all the customers as a group. It is also apparent from the record that the Respondent had increased his base prices w.e.f. 15.11.2917 the date from which the rate reduction had come in to effect which shows that he had no intention of passing on the benefit and he wanted to appropriate it and this increase had no connection with the market conditions, consumer behaviour or the competition in the market. The Respondent has also tried to mislead by claiming that the 'Zero Methodology' applied by the DGAP for calculating the profiteered amount was contrary to the stand which was taken by the GOI against anti-dumping margins as had been reported in the **Report No. WT/DS141/AB/R dated 01.03.2001 of the Appellate Body of WTO** vide which both the positive and the negative dumping margins were ordered to be taken in to account to determine their impact and the same methodology of 'netting off' should also be applied in his case. In this connection it would be pertinent to mention that the argument advanced by the Respondent is farfetched as the provisions of Section 171 are nowhere comparable with the issues of anti-dumping margins and hence the same are fallacious and irrelevant to the facts of the present case. By applying the principle of netting off the computation of profiteering will have to be made by considering the positive and negative price rises which would result in denial of benefit to the recipients individually and on each product.

57. The Respondent vide his submissions dated 21.08.2018 has claimed that at the time of investigation he could not provide invoice wise details to the DGAP as the number of the invoices for the period between 15.11.2017

to 31.5.2018 was more than 4 Crore and he had submitted them now and hence the profiteered amount should be recalculated invoice basis. The claim made by the Respondent in this regard is without any basis as the calculation could not be done on the invoice basis as it would amount to canceiling out of the benefit between those products on which the prices have been increased with the products in the case of which the prices have been reduced, the net impact of which would not result in passing on the benefit commensurately to each customer on every supply. Therefore, the denial of benefit has to be calculated product wise. The Respondent has also failed to explain how the benefit would be passed to a customer if he had bought a single product on which the price had been increased. The contention of the Respondent that the products mentioned in an invoice generally included both type of products on which rate had been increased and reduced and the benefit has been passed as the reduction is more than the increase is completely farfetched and has no basis whatsoever and the hence the same is rejected as no such 'netting off' can result in passing of the above benefits.

58. The Respondent has also stated that the provisions of Section 171 of the above Act could not be invoked in his case however, the contention of the Respondent is not tenable as mere charging of 5% GST after the rate reduction does not amount to compliance of the above Section as he was required not to increase the prices more than the quantum of denial of ITC whereas he had exceed the above limit. The case of ***Pawan Sharma v. M/s Sharma Trading Company, Case No. 6/2018*** also does not help him as there was no finding to the effect in that case that mere charging of the reduced rate of tax will meet the provisions of the above Section

rather it was held that the above Company should not have increased the base prices which were existing on 14.11.2017 and should have reduced its MRPs. Although the Respondent had not received additional ITC but still be was legally required not to increase his prices beyond the amount of denial of ITC. This Authority has not examined the factors which were taken it to account by the Respondent while fixing his prices and its examination has been limited to the extent of scrutinizing whether he had passed on the benefit of tax reduction or not. Both the issues of rate reduction and denial of ITC have to be investigated together to determine whether the Respondent has complied with the provisions of Section 171 or not and hence they cannot be treated separately. There is no question of this Authority or the DGAP being price regulatory authorities as they have neither examined the pricing policies of the Respondent nor given him any direction to fix his prices in a particular manner and their role has been limited to the extent whether the Respondent has passed on the benefit of tax reduction or not as per the provisions of Section 171. The Respondent is free to fix his prices and profit margin depending upon the factors which he finds fit to be considered. Any scrutiny of price increase made by the Respondent which is not commensurate with the denial of ITC certainly falls in the ambit of profiteering and it cannot be termed as price control or price regulation and hence it does not violate the provisions of Article 19 (1) (g) of the Constitution. There is no restriction on the Respondent to fix his prices keeping in view the various factors but such an exercise should not violate the provisions of Section 171.

59. The Respondent has also claimed that present proceedings had been launched in violation of the principles of natural justice as no show cause

notice had been issued to him. The claim made by the Respondent is wrong as it has been made as an afterthought. In this regard it would be appropriate to mention that the Respondent has been duly issued a notice for hearing by this Authority on 19.07.2018 intimating that a complaint dated 29.11.2017 had been received against him from the Applicant No. 1 which was investigated by the DGAP and The DGAP had submitted his Report on 16.07.2018 in which he had held the Respondent guilty of violation of the provisions of Section 171 as he had denied the benefit of tax reduction to his recipients. A copy of the Report was also supplied to the Respondent along with all the Annexures attached with the Report. The Respondent was also informed that the Report filed by the DGAP had been duly considered by the Authority and it had been decided to give him opportunity to file submissions on the findings of the DGAP. A copy of the complaint made by the Applicant No. 1 was also supplied to him by the DGAP and a notice for investigation was also issued to him by the DGAP on 25.01.2018 asking him whether he admitted that he had passed on the benefit of tax reduction or not. Therefore, it is apparent that the Respondent was fully aware of the allegations which had been levelled against him as well as the findings of the DGAP in which he had been alleged to have resorted to profiteering. The Respondent had also filed detailed submissions to the Report on 13.08.2018, 21.08.2018 and 11.09.2018 and at no stage he had raised the issue of non-issuance of the show cause notice which shows that the present objection which has been raised by him on 17.09.2018 is as an afterthought to evade the consequences of his illegal act. The Respondent being a very large organisation could also not have been ignorant of the fact that he was liable to civil and penal liabilities under

Rule 133 of the CGST Rules, 2017 if he was found guilty of violation of the provisions of Section 171. The Respondent has been duly put to notice and full opportunity of being heard and defend himself has been repeatedly granted to him as and when it was requested by him and he has also filed detailed submissions along with the oral arguments and hence he cannot claim that there has been violation of the principle of *audi alteram partem*. This Authority has not treated the Report of the DGAP as the show cause notice as the notice dated 19.07.2018 has been duly issued to him after careful consideration of the material which had shown that the Respondent had violated the provisions of Section 171. Since the Respondent has been given full opportunity to defend himself, it is respectfully submitted that the cases of ***Canara Bank & others v. Debasis Das & others (2003) 4 SCC 557, Uma Nath Pandey & others v. State of UP (2009) 12 SCC 40, Collector of Central Excise v. ITC Ltd. 1994 (71) ELT 324, Vasta Bio-Tech Pvt. Ltd. v. Assistant Commissioner 2018 (360) ELT 234 , Dharampal Satyapal Ltd. v. Deputy Commissioner of Central Excise 2015 (320) ELT 3, Anrak Aluminium Ltd. v. Commissioner 2017 (4) GSTL 248 and Goyal Tobbaco v. Commissioner 2015 (329) ELT 619*** cited by the Respondent in his support ,are not being relied upon.

60. The Respondent has repeatedly quoted the order dated 27.09.2018 passed by this Authority in the case of ***Jijrushu N. Bhattacharya v. NP Foods*** on the ground that the facts of that case were exactly similar to the case of the Respondent and hence the present proceedings should be dropped. However, comparison of both the cases shows that in the case of NP Foods the prices were increased by 12.14% due to denial of ITC of

11.80% i.e. by 0.34% which was commensurate with the denial of ITC whereas in the case of the Respondent the prices were increased by the Respondent anywhere between 5.75% to 84.55%, against the denial of benefit of ITC to the tune of 5.59% which cannot be compared with the price rise made by the NP Foods. This Authority in the case of ***M/s Hardcastle Restaurants Pvt. Ltd.*** decided on 16.11.2018, the facts of which are similar to the facts of this case, has clearly held that based on the denial of ITC, the above Company could increase its prices only to the extent of denial and any increase made over and above the denial of ITC would amount to denial of benefit of tax reduction resulting in infringement of the provisions of Section 171 of the Act. Accordingly, in the present case the benefit of denial of ITC works out to be 5.59% and as has been discussed in Para 10 above, the Respondent could have increased his prices to the extent of 5.59%. However, as is apparent from Annexure-23 of the DGAP's Report the prices of the products have been increased by the Respondent from 5.75% to 84.55%. The DGAP has therefore, considered only those products on which there has been increase of more than 5.59%, accordingly 170 products have been impacted and the profiteered amount on these products has been rightly computed as Rs. 41,42,97,635/-.

61. In view of the above discussion it is held that the Respondent has not passed on the benefit of reduction in the rate of tax to his recipients, commensurate to the denial of ITC, during the period between 15.11.2017 to 31.05.2018 and accordingly, the quantum of denial of such benefit or the profiteered amount illegally earned by the Respondent is determined as Rs. 41,42,97,635/- as per the provisions of Rule 133 (1) of the CGST

Rules, 2017. Accordingly, the Respondent is directed to reduce his prices by way of commensurate reduction keeping in view the reduced rate of tax and the benefit of ITC denied. The Respondent is also directed to refund to the Applicant No. 1 an amount of Rs. 5.65 along with interest @18% from the date of charging of the above amount from him till its refund. He is further directed to deposit the balance amount of Rs. 41,42,97,629.35 (Rupees Forty One Crore Forty Two Lakh Ninety Seven Thousand Six Hundred Twenty Nine and Thirty Five Paise only) as per the provisions of Rule 133 (3) (c) in the ratio of 50:50 in the Central and the State CWFs along with interest @ 18% till the same is deposited, within a period of 3 months. Accordingly an amount of Rs. 20,71,48,814.67 (Twenty Crore Seventy One Lakh Forty Eight Thousand Eight Hundred Fourteen and Sixty Seven Paise Only) will be deposited in the Central Consumer welfare fund while the balance will be deposited in the State CWFs as shown in the table given below:-

S.No.	State (Place of Supply)	Profiteering (Rs.)
1	Andhra Pradesh	27,42,588
2	Arunachal Pradesh	1,30,898.50
3	Assam	22,72,669
4	Bihar	31,19,420.50
5	Chandigarh	18,84,362
6	Chhattisgarh	19,55,496.50
7	Dadra and Nagar Haveli	1,07,651.50
8	Daman & Diu	1,51,819
9	Delhi	2,39,88,346
10	Goa	21,14,117
11	Gujarat	1,04,94,079
12	Haryana	1,23,35,538
13	Himachal Pradesh	13,58,342.50
14	Jammu & Kashmir	12,93,382
15	Jharkhand	15,80,017
16	Karnataka	2,53,24,454.675
17	Kerala	22,97,540.50
18	Madhya Pradesh	49,34,225

19	Maharashtra	3,95,74,886.50
20	Meghalaya	2,64,126
21	Nagaland	1,41,545.50
22	Odisha	15,66,858
23	Pondicherry	3,40,605
24	Punjab	93,13,692
25	Rajasthan	47,19,641.50
26	Sikkim	3,34,289.50
27	Tamil Nadu	1,31,97,302.50
28	Telangana	96,71,955
29	Uttar Pradesh	1,97,09,500.50
30	Uttarakhand	29,17,668.50
31	West Bengal	93,09,797
Total		20,71,48,814.67

62. The concerned Central and State GST Commissioners are directed to ensure that the amount due is got deposited from the Respondent along with interest and in case the same is not deposited necessary steps shall be taken by them to get it recovered from the Respondent as per the provisions of the CGST/SCST Acts under the supervision of the DGAP. They are further directed to submit report in compliance of this order within a period of 4 months.

63. Since the present investigation has been conducted between the period w.e.f. 15.11.2017 to 31.05.2018 only, the DGAP is directed to further investigate whether the Respondent has passed on the benefit of tax reduction to his customers after the above date or not and submit his findings to this Authority as per the provisions of the CGST Act, 2017.

64. As per the above narration of the facts it is clear that the Respondent has resorted to profiteering by charging more price than what he could have charged by issuing wrong tax invoices. He has further acted in conscious disregard of the obligation which was cast upon him by the law, by issuing incorrect invoices in which the base prices were deliberately enhanced

more than what he was entitled to increase due to denial of ITC and thus he had denied the benefit of reduction in the rate of tax granted vide Notification dated 14.11.2017 to his customers. Accordingly he has committed an offence under Section 122 (1) (i) of the CGST Act, 2017. Therefore, a show cause notice be issued to the Respondent to explain why penalty under the provisions of the above Section should not be imposed on him.

65. A copy of this order may be sent to both the Applicants, the Respondent and the concerned Central and the State GST Commissioners free of cost. The file of the case be consigned after completion.

Sd/-
(B. N. Sharma)
Chairman

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

Certified Copy

(A. K. Goel)
Secretary, NAA

Sd/-
(R. Bhagyadevi)
Technical Member

Sd/-
(Amand Shah)
Technical Member

F. No. 22011/NAA/59/Jubiliant/2018/1668-1720 Date: 31.01.2019

Copy to :-

1. Sh. Kiran Chimrala, chiki1303@gmail.com
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-11000.

3. M/s Jubiliant Food Work Ltd., 5th Floor, Tower-D, Plot No. 5, Logix Techno Park, Sector-127, Noida-201304, U.P.
4. Commissioner of Commercial Taxes, Office of the Chief Commissioner of State Tax, Eedupugallu, Krishna District, Andhra Pradesh.
5. Commissioner of Commercial Taxes, Department of Tax & Excise, Kar Bhawan, Itanagar, Arunachal Pradesh - 791 111
6. Commissioner of Commercial Taxes, Office of the Commissioner of Taxes, Government of Assam, Kar Bhawan, Ganeshpuri, Dispur, Guwahati - 781 006.
7. Commissioner of Commercial Taxes, Additional Commissioner (GST), Commercial Tax Department, Ground Floor, Vikas Bhawan, Baily Road, Patna – 800 001
8. Commissioner of Commercial Taxes, Commercial Tax, SGST Department, Behind Raj Bhawan, Civil Lines, Raipur - 492 001
9. Commissioner of Commercial Taxes, Office of Commissioner of Commercial Tax, Vikrikar Bhavan, Old High Court Building, Panji, Goa- 403 001
10. Commissioner of Commercial Taxes, C-5, Rajya Kar Bhavan, Near Times of India, Ashram Road, Ahmedabad.
11. Commissioner of Commercial Taxes, Vanijya Bhavan, Plot No. 1-3, Sector-5, Panchkula. PIN - 134 151.
12. Commissioner of Commercial Taxes, Excise & Taxation Commissioner, Government of Himachal Pradesh, B-30, SDA Complex, Kasumpati, Shimla.
13. Commissioner of Commercial Taxes, Excise & Taxation Complex, Rail Head Jammu.
14. Commissioner of Commercial Taxes, Commercial Taxes Department, Project Bhawan, Dhurva, Ranchi- 834 004.
15. Commissioner of Commercial Taxes, Vanijya Therige Karyalaya, 1st Main Road, Gandhinagar, Bangalore- 560 009
16. Commissioner of Commercial Taxes, Government Secretariat, Thiruvananthapuram -695001.
17. Commissioner of Commercial Taxes, Moti Bangla Compound, M.G. Road, Indore
18. Commissioner of Commercial Taxes, GST Bhavan, Mazgaon, Mumbai- 400 010
19. Commissioner of Commercial Taxes, Department of Taxes, Old Guwahati High Court Complex, North AOC, Imphal West, Manipur - 795 001.
20. Commissioner of Commercial Taxes, Office of the Commissioner, GST&CX Commissionerate, Morellow Compound, M.G.Road, Shillong- 793001.
21. Commissioner of Commercial Taxes, Office of the Commissioner of State Tax, New Secretariat Complex, Aizawl – 796005.
22. Commissioner of Commercial Taxes, Office of the Commissioner of State Taxes, Dimapur, Nagaland - 797112.
23. Commissioner of Commercial Taxes, Office of the Commissioner of State Tax, Banijyakar Bhawan, Old Secretariat Compound, Cuttack - 753 001.

24. Commissioner of Commercial Taxes, Office of Excise and Taxation Commissioner, Bhupindra Road, Patiala- 147 001
25. Commissioner of Commercial Taxes, Kar Bhavan, Ambedkar Circle, Jaipur, Rajasthan - 302 005.
26. Commissioner of Commercial Taxes, SITCO Building, Block-D, above A.G. Office, Gangtok, East, Sikkim - 737 101.
27. Commissioner of Commercial Taxes, PAPJM Building, Greams Road, Chennai – 600 006.
28. Commissioner of Commercial Taxes, O/o the Commissioner of State Tax, CT Complex, Nampally Station Road, Hyderabad - 500 001.
29. Commissioner of Commercial Taxes, Office of the Commissioner of Taxes & Excise, Head of the Department, Revisional Authority, P.N. Complex, Gurkhabasti, Agartala - 799 006.
30. Commissioner of Commercial Taxes, Office of the Commissioner, Commercial Tax, U.P. Commercial Tax Head Office Vibhuti Khand, Gomti Nagar, Lucknow (U.P)
31. Commissioner of Commercial Taxes, State Tax Department, Head Office Uttarakhand, Ring Road, Near Pulia No. 6, Natthanpur, Dehradun
32. Commissioner of Commercial Taxes, 14, Beliaghata Road, Kolkata - 700 015.
33. Commissioner of Commercial Taxes, Deptt of Trade & Taxes, Vyapar Bhavan, IP Estate, New Delhi-2 Pin: 110 002
34. Commissioner of Commercial Taxes, First Floor, 100 feet Road, Ellapillaichavady, Pondicherry - 605 005.
35. Commissioner, Excise, Excise Department, Daman, Moti Daman-396220
36. Commissioner, Excise, Forest office Compound, Opp. Gujarat Industrial Bank, Dadra and Nagar Haveli, Silvassa.
37. Commissioner of taxation, Additional Townhall Building, Sector 17-C U.T. 235, Jan Marg, Bridge Market, 17C, Chandigarh, 160017
38. Chief Commissioner of Central Goods & Services Tax, Bhopal Zone 48, Administrative Area, Arera Hills, Hoshangabad Road, Bhopal M.P. 462 011
39. Chief Commissioner of Central Goods & Services Tax, C.R.Building Rajaswa Vihar, Bhubaneshwar 751007.
40. Chief Commissioner of Central Goods & Services Tax, Chandigarh Zone C.R. Building, Plot No.19A, Sector 17C, Chandigarh 160017.
41. Chief Commissioner of Central Goods & Services Tax, Cochin Zone, C.R.Building, I.S.Press Road, Ernakulam Cochn 682018
42. Chief Commissioner of Central Goods & Services Tax, Delhi Zone C.R. Building, I.P. Estate, New Delhi 110 109
43. Chief Commissioner of Central Goods & Services Tax, Hyderabad Zone GST Bhavan, L.B.Stadium Road, Basheer Bagh, Hyderabad 500 004

44. Chief Commissioner of Central Goods & Services Tax, Jaipur Zone, New Central Revenue Building, Statue Cicle, Cscheme Jaipur 302 005
45. Chief Commissioner of Central Goods & Services Tax, Meerut Zone Opp. CCS University, Mangal Pandey Nagar, Meerut 250004
46. Chief Commissioner of Central Goods & Services Tax, Mumbai Zone GST Building ,115 M.K. Road, Opp. Churchgate Station, Mumbai 400020
47. Chief Commissioner of Central Goods & Services Tax,, Telangkhedi Road, Civil Lines, Nagpur 440001
48. Chief Commissioner of Central Goods & Services Tax, Panchkula SCO 407408, Sector 8 Panchkula
49. Chief Commissioner of Central Goods & Services Tax, Pune Zone GST Bhawan Ice House, 41A, Sasoon Road, Opp. Wadia College, Pune 411001
50. Chief Commissioner of Central Goods & Services Tax, (Ranchi Zone) 1st Floor, C.R. Building, (ANNEX) Veerchand Patel Path Patna, 800001
51. Chief Commissioner of Central Goods & Services Tax, Shillong Zone North Eastern, 3rd Floor, Crescens Building, M.G. Road, Shillong 793 001
52. Chief Commissioner of Central Goods & Services Tax, Vadodara Zone 2nd Floor, Central Excise Building, Race Course Circle, Vadodara 390 007
53. Chief Commissioner of Central Goods & Services Tax, Vishakhapatnam Zone GST Bhavan, Port Area, Vishakhapatnam 530 035.
54. NAA Website.
55. Guard File.