

BEFORE THE COMPETITION COMMISSION OF INDIA

(AUTHORITY UNDER SECTION 171 OF THE CENTRAL GOODS & SERVICES TAX ACT, 2017)

Case No. 03 /2023
Date of Institution 12.01.2023
Date of Order 17.07.2023

In the matter of:

Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicant

Versus

M/s L&T Parel Project LLP, L&T Business Park Tower A, Gate No. 5, Saki Vihar Road, Powai, Mumbai, Maharashtra – 400 072.

Respondent

Quorum:-

Mrs. Ravneet Kaur, Chairperson,
Mrs. Sangeeta Verma, Technical Member.
Sh. Bhagwant Singh Bishnoi, Member,

ORDER

1. The present Report dated 12.01.2023, has been received from the Director General of Anti-Profiteering (DGAP) after an investigation as per the directions passed under Rule 133(5) of the Central Goods and Service Tax Rules (CGST), 2017 vide Order No. 51/2022 dated 29.07.2022 by the

National Anti-profiteering Authority (NAA) in the case of M/s L&T Parel Project LLP (Respondent) in respect of the projects other than the 'Crescent Bay'.

2. The DGAP vide his first Investigation Report dated 29.10.2020 had reported that the Respondent while executing the 'Crescent Bay' Project situated in Parel Mumbai had profiteered an amount of Rs. 7,94,569/- from the Applicant No. 1 Sh. Bharat Kashyap, Rs. 29,45,27,905/- from other 850 home buyers who had not filed complaints and Rs. 1,23,35,442/- from M/s Omkar Realtors & Developers Pvt. Ltd. who was co-developer of the Project and was to further pass on the profiteered amount to the 30 flat buyers.
3. The Respondent and M/s Omkar Realtors & Developers Pvt. Ltd. had entered in to 60:40 Joint Revenue Sharing agreement in which cost was to be borne by the Respondent. Hence, the ITC was claimed by the Respondent who was to pass the benefit of ITC to home buyers who had purchased flats from him and M/s Omkar Realtors & Developers Pvt. Ltd. was to get his share of ITC from the Respondent and pass it on to the buyers to whom he had sold his share of flats.
4. Further, vide Para 55 of the aforesaid order, the NAA directed the DGAP in terms of Rule 133(5) of the CGST Rules, 2017, to investigate profiteering in relation to projects other than project "Crescent Bay", which were being executed by the Respondent and M/s Omkar Realtors & Developers Pvt. Ltd., under the provision of Section 171 of the CGST Act, 2017. The contents of para 55 are reproduced below :-

"55. In view of facts discussed hereinabove and the findings thereof, the Authority has a reason to believe that since the Respondents have been found to have contravened the provisions of Section 171 of the

CGST Act 2017 in respect of the subject Project "Crescent Bay" and hence there is every possibility that similar contravention may have taken place with his other projects. This Authority in terms of Rule 133 (5)(a) of the CGST Rules 2017 also directs the DGAP to investigate profiteering in relation to other Projects executed by the Respondent No. 1 and 2, if any, under the provision of section 171 of the CGST Act 2017."

5. In pursuance of the above direction the DGAP vide his Report dated 12.01.2023 has inter-alia submitted the following :-

- i) That a Notice under Rule 129 of the CGST Rules, 2017 was issued on 23.08.2022, calling upon the Respondent to reply as to whether he admitted that the benefit of input tax credit had not been passed on to the customers of projects other than "Crescent Bay", by way of commensurate reduction in prices and if so, to suo moto determine the quantum thereof and indicate the same in his reply to the Notice as well as furnish all the supporting documents.
- ii) The period covered by the current investigation was from 01.07.2017 to 31.07.2022.
- iii) In response to the Notice dated 23.08.2022, the Respondent replied vide email dated 23.09.2022 that he had executed only one housing Project "Crescent Bay" and he was not executing any other project.
- iii) In order to verify Respondent's claim that he had not undertaken any project other than "Crescent Bay", the details of Respondent's projects registered with Maharashtra Real Estate Regulatory Authority (RERA) were checked online and it was observed that the Respondent had taken tower-wise RERA registration of 6 towers under Crescent Bay

project. Further, no other projects of the Respondent except 6 Crescent Bay towers were registered with RERA. The details are as follows:-

Sl. No.	Project Name	Promoter Name	RERA Registration No.
1	Crescent Bay - T4	L&T Parel Project LLP (JV with ORDPL)	P51900006593
2	Crescent Bay - T5	L&T Parel Project LLP (JV with ORDPL)	P51900004544
3	Crescent Bay - T6	L&T Parel Project LLP (JV with ORDPL)	P51900004666
4	Crescent Bay - T3	L&T Parel Project LLP (JV with ORDPL)	P51900005188
5	Crescent Bay - T2	L&T Parel Project LLP (JV with ORDPL)	P51900010178
6	Crescent Bay - T1 - 40, 41 floors	L&T Parel Project LLP (JV with ORDPL)	P51900008032

- v) Further, the DGAP had sent a letter to the jurisdictional Commissioner for ascertaining whether Respondent had executed projects other than the project "Crescent Bay". In response, the Deputy Commissioner of State Tax, Govt. of Maharashtra, Mumbai intimated vide email dated 21.10.2022 that he had sent a letter dated 20.10.2022 to the Respondent to enquire about the projects executed by the Respondent and the Respondent has intimated vide letter dated 20.10.2022 that he had not executed any project other than the project "Crescent Bay".
- vi) The DGAP has concluded that the Respondent has not undertaken any other project except project "Crescent Bay" which has already been investigated by DGAP and profiteering has been determined vide NAA Order No. 51/2022 dated 29.07.2022. Therefore, Section 171(1) of the Central Goods and Services Tax Act, 2017 requiring that "*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*", is not applicable in the present case.

6. This Commission has carefully considered the Report of the DGAP and the other material placed on record and finds that the DGAP, in pursuance to the Order No. 51/2022 dated 29.07.2022, has investigated the matter pertaining to the other projects executed by the Respondent in terms of Section 171 of the CGST Act, 2017 and the Rules made there under so as to determine whether there has been any profiteering by the Respondent and found that no other project has been executed by the Respondent except the project "Crescent Bay", profiteering in respect of which has already been determined by the NAA vide its order dated 29.07.2022.
7. The above fact has also been corroborated from the website of the Maharashtra RERA as well as the reply of the Commissioner State Tax Maharashtra as per the report of the DGAP.
8. In view of the above facts, this Commission finds that the provisions of Section 171 of the CGST Act, 2017 are not attracted in the case of the other projects of the Respondent and therefore the proceedings are accordingly dropped against him.
9. A copy of this order be sent to the Respondent and the DGAP free of cost. File of the case be consigned after completion.

Sd/-
(Bhagwant Singh Bishnoi)
Member

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Certified Copy


(Jyoti Jindgar Bhanot)
Secretary, CCI

F. No. M/AP/02/L&T-otherprojects-op/2023-Sectt./377-379 Dated: 17/07/2023

Copy To:-

1. M/s L&T Parel Project LLP, L&T Business Park Tower A, Gate No. 5, Saki Vihar Road, Powai, Mumbai, Maharashtra – 400 072.
2. The Director General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
3. Guard File.