

Director General of Anti-Profiteering v. Theco India Pvt. Ltd.

Case number: NAPA/17/PB/2025

Citation: No neutral or reporter citation printed for this judgment in the identified official PDF.

Decision date: 19 September 2025

Dental-product dealer: rejection of unproved additional-ITC profiteering after Tribunal-directed buyer verification

Court: Goods and Services Tax Appellate Tribunal, Principal Bench, New Delhi, Anti-Profiteering Division

Bench: Justice (Retd.) Dr. Sanjaya Kumar Mishra, President, Single Bench, Court I

Decision stage: Final reasoned rejection of DGAP's Rs. 1,49,81,077 profiteering allegation for want of sufficient evidence, following Tribunal-directed buyer verification; no fresh principal, interest or penalty award.

01 Facts of case and issues

Theco India supplied dental products to hospitals, clinics and other buyers as a dealer. The source describes the pre-GST CVD/SAD and CST cost structure and post-GST input credit. A complaint by Crown Express Dental Lab concerned a Lava CNC 240 milling machine with accessories and a Sintering Furnace D664. The earlier NAA order of 28 November 2018 directed Rs. 4,78,085 plus 18% interest to that complainant and further investigation. That historical award is distinct from the expanded report rejected in the present judgment.

An ensuing report dated 1 July 2020 proposed Rs. 1,29,39,594 for 85 products supplied during the stated 1 July 2017–30 August 2019 period. Following further NAA directions, the report principally identified as 2 February 2023 revised the allegation to Rs. 1,49,81,077. The revision treated the entire post-GST credit as additional benefit because no credit had been availed before GST. Its annual table contains Rs. 59,99,776, Rs. 66,36,346 and Rs. 23,44,955, which add exactly to that revised total. The last row ends on 31 August 2019, unlike the repeatedly stated 30 August endpoint.

The report examined 475 SKUs: prices increased for 158, decreased for 316 and were unchanged for one. DGAP considered the evidence insufficient to show that the decreases represented commensurate ITC pass-through and inferred that all credit should be treated as unpassed benefit. Theco said it excluded ITC from its cost accounting, varied prices for warranty, support and commercial factors, and passed supplier price reductions onward. Its assertion about Rs. 9,77,343 of potential but unavailed transitional credit was a defence, not a fresh credit entitlement awarded here.

01 Facts of case and issues

The Tribunal did not initially accept the request to close the matter. It directed further buyer inquiries in July 2025 and allowed the parties to provide contact details and responses. The early account recorded 21 responses out of 58 and approximately Rs. 97.68 lakh of benefit; a later stage recorded 37 responses. At the final stage two persons were excluded because they were absent from the relevant annexure, leaving 56. The eventual recorded position was 50 confirmations, five closed businesses and one buyer reporting inability to avail credit because it lacked GST registration. These successive stages are not one simultaneous set of counts or proof that every invoice was independently verified.

Pinpoint: Identity and historical Crown order: physical pp. 1–4, paragraphs 1–4. Expanded investigation and revised report: paragraphs 5–11, pp. 4–12. Annual table: p. 10. Party and DGAP submissions: paragraphs 12–13, pp. 12–22. Tribunal-directed verification: paragraphs 14–18 and 21, pp. 22–27 and 29–30.

02 Discussion by Hon'ble Tribunal

Paragraphs 19–22 give the Tribunal's own merits reasons. It characterises the anti-profiteering inquiry as having inquisitorial features because the authority can monitor and expand investigation, while holding that DGAP still bears the initial burden of establishing the alleged failure to pass benefit. It then examines the actual report passage rather than treating the possession of post-GST credit as conclusive proof of profiteering.

The quoted report says that the supplied material did not establish commensurate reductions; it then infers non-compliance and treats the entire credit as unpassed benefit. GSTAT interprets that reasoning as an evidential gap. In paragraph 20 it says DGAP needed to ascertain actual profiteering rather than rely on the fact that some SKU prices rose and others fell. This is a case-specific evaluation of the report and the evidence, not a finding that all ITC can always be retained or that a dealer's statement about cost accounting is automatically sufficient.

The final also relies on the additional inquiry it supervised. Paragraph 18 first describes 49 confirmations, five closed businesses and two unresolved purchasers among 56. It then records South Man Dental Lab's confirmation and Shah Dental Pvt. Ltd.'s statement that it could not avail credit because it was unregistered. Paragraph 21 summarises 50 confirmations, five closed businesses and one unregistered buyer. The source sometimes calls buyers suppliers or a respondent; those labels do not change the described buyer-verification sequence. The five closed businesses supplied no information and the single unregistered buyer did not confirm receipt. The note therefore does not describe all 56 as affirmative confirmations.

The judgment's references to recipients receiving ITC benefit do not reproduce complete invoice-level evidence of price reduction. The note reports the inference GSTAT draws, without independently equating a buyer's ability to claim input tax with the supplier's Section 171 price obligation. Likewise, paragraph 20's wording about the total increases and decreases is not recast as a general authorisation for cross-customer netting. The lengthy contrary no-netting and price-compliance statements in paragraph 13 belong to DGAP's submissions, not new operative GSTAT holdings.

02 Discussion by Hon'ble Tribunal

The Tribunal concludes that there is no adequate material to fix the revised liability and rejects the report. This is a final merits outcome on evidential insufficiency, not a consent settlement, a refund-compliance closure or an endorsement of every defence. The source does not supply a new transaction-wise zero-liability calculation, a refund of the old Crown award or a universal exemption for dental-equipment dealers.

Chronology and scope defects remain visible. Paragraph 3 dates a report to 8 June 2018 with receipt on 31 August; paragraph 14 prints a 5 August 2025 remand preceding a 2 February 2023 report, whereas the earlier passages identify the relevant NAA remand as 5 August 2022. Paragraph 19 calls the report 2 April 2023 rather than 2 February. The stated 30 August 2019 period differs from the table's 31 August date. The text shifts between 85 products, 475 SKUs and 475 invoices without reproducing the complete reconciliation. These are not silently repaired into an invented procedural history or database.

Pinpoint: Own burden and evidential reasoning: paragraphs 19–22, physical pp. 27–30. Actual report quotation: paragraph 19, pp. 27–29. Final buyer sequence: paragraphs 18 and 21, pp. 26–27 and 29–30. Date/scope defects: paragraphs 3, 6–9, 11, 14 and 19, pp. 3–12, 22–23 and 27.

03 Judicial decision and operative relief

Paragraph 22 rejects DGAP's report alleging profiteering of Rs. 1,49,81,077 and closes this proceeding because the Tribunal finds insufficient material to establish that allegation. No part of that revised sum is ordered to be paid, returned to identified recipients or deposited in a Consumer Welfare Fund. The final imposes no fresh interest or penalty and states no payment or compliance-report deadline. That absence is the consequence of rejecting this claim, not a separately reasoned temporal penalty exemption.

The historical Rs. 4,78,085 Crown Express Dental Lab direction with 18% interest is narrated in paragraphs 3–4. The selected final does not expressly reverse or refund that earlier separate direction, and no current payment or appellate status for it is inferred. Nor does rejection of the expanded report create an affirmative refund award to Theco.

The judgment is pronounced in open court. Its cover and summary date is 19 September 2025. The last page bears a visible digital-signature annotation dated 19 September 2025 at 19:09:30; this visual observation does not certify cryptographic validity. The bounded later-treatment review does not certify absence of every challenge or compliance event.

Pinpoint: Operative rejection, closure, pronouncement and signature: paragraph 22, physical p. 30; administrative summary p. 2. Historical Crown direction: paragraphs 3–4, pp. 3–4.

04 In favour of

Theco India on the expanded Rs. 1,49,81,077 allegation, which is rejected on the Tribunal's assessment of insufficient evidence after buyer inquiries. This does not establish an affirmative refund, validate every defence or determine that the historical Crown award has been repaid or annulled.

04 In favour of

Final substantive no-liability decision on the expanded report. The Tribunal's own burden-of-proof analysis, reading of the report and supervised factual inquiries provide the substantive reasoning, notwithstanding the concluding closure language. Final does not certify appellate exhaustion or the status of a separate earlier award.

Pinpoint: Paragraphs 14–22, physical pp. 22–30, particularly 19–22.

05 AKHB REVIEW POINT

AKHB analysis: Separate input credit actually available, additional transitional benefit, tax-inclusive acquisition cost and recipient-level price pass-through. Maintain the underlying purchase/sale invoices and comparable SKU analysis rather than assuming that all post-GST credit, or its exclusion from accounting cost, answers the legal question.

A challenge to an investigation should identify the precise evidential step missing between tax-credit figures and the alleged consumer detriment. Preserve buyer responses and explain non-responses, closed businesses, registration status and changes in the sample. Do not substitute a majority of confirmations for a full invoice audit or present a buyer's tax-credit eligibility as automatic proof of commensurate pricing.

When reading a final report rejection, distinguish the current claim from older directions concerning different transactions or complainants. Obtain the underlying orders and current court treatment before treating historical liabilities as extinguished or seeking a refund. This note's description of the Tribunal's inference is not a recommendation to rely on generalized netting or ignore Section 171 documentation.

Pinpoint: AKHB commentary based on paragraphs 6–13 and 14–22, physical pp. 4–30; practical suggestions are commentary, not additional directions.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 171, operative anti-profiteering inquiry and evidential determination; CGST Act 2017: Section 171(2), Tribunal's inquiry-authority discussion; CGST Act 2017: Section 140 and proviso to Section 140(3), transitional-credit defence history; CGST Rules 2017: Rule 117 and Rule 117(4), unavailed transitional-credit submission; CGST Rules 2017: Rule 129(6), investigation-report history; CGST Rules 2017: Rule 133(1), earlier NAA order history; CGST Rules 2017: Rule 133(2A), CCI clarification history; CGST Rules 2017: Rule 133(4) and Rule 133(5)(a)/(b), historical investigation directions, with the source's 2018 attribution anachronistic because Rule 133(5) was inserted in 2019; CGST Rules 2017: Rules 113(1) and 115, administrative Form GST APL-04A heading only; Tamil Nadu Value Added Tax Act 2006: Section 19, DGAP's historical credit explanation; CENVAT Credit Rules 2004: Rules 3 and 9, historical submissions; Central Excise Rules 2002: Rules 9 and 11, historical dealer/invoice submissions; Service Tax Notification 25/2012, serial 2(i), respondent's healthcare-exemption recital; Central Excise Notification 8/2003, respondent's small-scale-exemption recital.

Statutory note

Targeted India Code confirms the Section 171 pass-through framework and Principal Bench statutory context. Notification 31/2019–Central Tax, dated 28 June 2019, clause 17(e), independently verifies that Rule 133(5)(a)/(b) was inserted in 2019. Thus paragraph 4’s attribution of those provisions to the 28 November 2018 direction is anachronistic; paragraph 5’s later-incorporation account and the underlying historical order are not silently reconstructed. The source’s Tamil Nadu VAT, CENVAT, transitional-credit and older-exemption discussions remain report/submission history rather than fresh operative determinations of all those instruments, whose complete originals were not independently re-audited. The final’s Section 171(2) inquiry discussion is express; Section 171(3A), an interest amendment and a temporal penalty exemption are not decided here. Rejection of this claim does not extinguish an older separate award.

Treatment note

A fresh normal-TLS official download exactly matches the collected original. Bounded official-domain, name and docket searches through 14 October 2026 identified no authenticated later case-specific correction, stay or reversal of this final. Search absence is not a no-appeal/no-stay or current-enforceability certificate, and no complete docket was audited. The prior NAA direction for Crown Express Dental Lab is recited history; this 2025 final does not expressly refund that historical award or determine its current payment or appellate status. Cover, summary and visible final-page signature dates are 19 September 2025, without cryptographic assurance.

Scope of source review

One reasoned final Principal Bench anti-profiteering judgment rejecting DGAP’s Rs. 1,49,81,077 allegation against Theco India. Own paragraphs 19–22 address the investigative burden and evidential insufficiency after Tribunal-directed buyer inquiries. The substantive character rests on those merits findings, not the final word closed. The note does not certify every transaction, equate all buyer input-credit availability with commensurate-price reduction, or turn this result into an industry-wide exemption.

Identity note

NAPA/17/PB/2025; reference ZA070925000047H; President Sanjaya Kumar Mishra, Court I. Cover, summary and visible signature date 19 September 2025. Final rejects Rs. 1,49,81,077 allegation; earlier Rs. 1,29,39,594 proposal and Rs. 4,78,085 Crown award are distinct history. Final sample of 56 includes 50 confirmations, five closed businesses and one unregistered buyer. Source repeatedly says 30 August 2019 while table ends 31 August; report/remand date variants and SKU/invoice terminology remain qualified. No fresh monetary, interest, penalty or reporting direction, and no affirmative taxpayer refund.

Primary source

Source description: Complete 30-page official PDF; all original text pages read and all existing individual original-page images viewed by the AI author.

Official source: [Open source document](#)

Source pages: 30

Outcome type: final

Additional source

CGST Act 2017, official India Code consolidation

Source document: [Open source document](#)

Pinpoint: Targeted Sections 109 and 171, physical pp. 87–88 and 122–123: Principal Bench jurisdiction, pass-through duty and Section 171(3A) insertion/commencement; not a complete current-law or appellate-remedy certification.

Central Tax Notification 31/2019, 28 June 2019

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 1 and 5, clause 17(e): 2019 insertion of Rule 133(5) establishes the source-history anachronism. Clause 17(c) Fund interest is background, not a fresh Theco award.

Central Tax Notification 18/2024, 30 September 2024

Source document: [Open source document](#)

Pinpoint: Complete one-page instrument: Principal Bench competence from 1 October 2024.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the identified sources. No human legal review is claimed.

General disclaimer: For professional information only; not legal advice. Read the judgment and applicable law in full and obtain case-specific advice before acting.

©AKHB & Associates. This copyright notice applies to the original AKHB research note, analysis and presentation. It does not assert ownership of the judicial orders, judgments, legislation, circulars or other third-party source material. Rights in those sources remain with their respective rights holders, as applicable.

Source checked: 14 October 2026