

## Director General of Anti-Profiteering v. Bengal Shapoorji Housing Development Pvt. Ltd.

**Case number:** NAPA/114/PB/2025

**Citation:** No neutral or reporter citation printed in the identified official order.

**Decision date:** 27 April 2026

Shukhobrishti Spriha Phases 5 and 6: unutilised ITC, fixed prices and GST-inclusive recipient restitution

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

**Bench:** Shri A. Venu Prasad, Member (Technical), Court IV

**Decision stage:** Final reasoned liability judgment directing Rs. 1,49,32,073 inclusive of GST with 18% collection-to-refund interest; the base amount was accepted, GST remained disputed, and penalty applicability is stated with an unquantified thirty-day proviso.

### 01 Facts of case and issues

Vinod Kumar Jain complained about Flat K/28/1005 in Shukhobrishti-Spriha Phases 5 and 6. The Standing Committee referred the complaint after its 8 May 2024 meeting. DGAP's report dated 25 March 2025 records an investigation beginning 1 April 2017, whereas Table B and the later contravention finding begin on 1 July 2017; both end on 30 September 2024. The report records continued use of the old effective 12% GST scheme with ITC, rather than the post-April 2019 no-ITC scheme.

The computation compares pre-GST credit of Rs. 7,07,53,315 on purchases of Rs. 85,76,15,936 with post-GST ITC of Rs. 3,38,64,834 on purchases of Rs. 24,18,91,674. The displayed ratios are 8.25% and 14.00%, with 5.75% additional benefit. Table B prints savings of Rs. 1,39,08,771, total saleable area of 16,01,387 square feet, Rs. 8.69 per square foot and sold area of 15,34,201 square feet. The report fixes base profiteering at Rs. 1,33,32,208 and GST at Rs. 15,99,865, totaling Rs. 1,49,32,073 for 1,525 eligible buyers.

The developer argued that WBHIDCO's development agreement fixed prices, that input taxes exceeded the effective output rate and that accumulated unutilised credit gave no real financial benefit. DGAP defended the project-savings/area methodology by reference to Reckitt Benckiser. On 16 April 2026 the developer accepted the report's findings but continued to object to adding GST. The complainant separately questioned the rate scheme and sought relief concerning other phases, excess taxes and charges, delayed possession, maintenance and parking. Those wider complaints must not be confused with the specific ITC award.

**Pinpoint:** Complaint and investigation: paragraphs 1–4(b), physical pp. 2–3. Tables A/B and 1,525 buyers: paragraphs 4(e)–4(g), pp. 4–6. Defences, DGAP response, wider complaints and later acceptance: paragraphs 7–12, pp. 6–9.

## 02 Discussion by Hon'ble Tribunal

The Tribunal rejected the argument that only actually utilised ITC counts. Paragraph 15 treats available additional credit as reducing supply cost even if accumulated, and says that a fixed development-agreement price cannot override Section 171. Its reference to claiming an unutilised-credit refund is expressly conditional on admissibility under the Act and Rules. This is not an award of such a refund or a ruling that every construction-sector accumulation is refundable. The separately checked historical Section 54(3) and Notification 15/2017 restrictions reinforce the need to retain that condition; this note does not adjudicate an actual refund claim. Paragraphs 14–18 apply these propositions to the accepted project figures; the initial objections and later admission remain distinct stages.

The live GST objection is rejected in paragraphs 19–20. Although DGAP's purchase-value calculation excludes GST, the developer collected GST-inclusive consideration from buyers. The Tribunal requires the corresponding tax component to be returned and relies on Reckitt paragraph 157. Paragraph 17 loosely refers to Rs. 15,99,865 as the profiteered amount; paragraphs 18–20 and the operative order identify it as the GST component, with Rs. 1,33,32,208 as base. It is not a second base award.

Paragraphs 21–22 apply Rule 133(3)(b) to require 18% interest from collection of the excess consideration to actual refund, citing Reckitt paragraph 153. Paragraph 23 states that Section 171(3A) is attracted because the stated contravention period includes time after 1 January 2020, and reproduces its ten-percent provision and thirty-day deposit proviso. It does not quantify a penalty, separate a post-2020 amount or establish whether the proviso was satisfied. The note does not infer a ten-percent assessment on the entire mixed-period principal.

The source computation is preserved with a caution. Dividing the printed savings by printed saleable area and multiplying by printed sold area gives approximately Rs. 1,33,25,230, rather than the printed base Rs. 1,33,32,208. Multiplying only the rounded Rs. 8.69 rate by the sold area gives approximately Rs. 1,33,32,207. The full working is absent; neither calculation silently replaces the adjudged amount. The base, GST and final total themselves add correctly.

The order records the complainant's additional grievances and request for other phases, but its reasoning and direction do not separately determine every requested compensation, charge refund or phase extension. Nor does the recorded old-scheme premise independently prove the developer's election documentation or resolve every affordable-housing classification objection.

**Pinpoint:** Substantive ITC and fixed-price analysis: paragraphs 14–18, physical pp. 10–11. GST and interest: paragraphs 19–22, pp. 11–13. Penalty: paragraph 23, p. 13. Calculation: Table B, p. 5. Wider submissions: paragraphs 9 and 11, pp. 7–9; final scope: paragraph 24, p. 14.

## 03 Judicial decision and operative relief

The Tribunal directed the developer to refund Rs. 1,33,32,208 plus GST of Rs. 15,99,865, totaling Rs. 1,49,32,073, to eligible buyers identified in Annexure 11 to DGAP's report. The report identifies 1,525 eligible buyers. Interest is 18% per annum from the dates of collecting the higher amounts until actual refund, under Rule 133(3)(b). No Consumer Welfare Fund payment or refund of unutilised ITC to the developer is ordered.

### 03 Judicial decision and operative relief

Compliance must be reported to the jurisdictional Commissioner, with intimation to DGAP, within three months from the order date. This express reporting period is distinct from the thirty-day penalty proviso quoted in paragraph 23; the operative paragraph does not separately state a numerical principal-refund deadline. Penalty applicability is stated, but no exact rupee penalty or post-2020 allocation is assessed.

The matter is disposed of and pronounced in open court. The typed order and visible digital-signature date are 27 April 2026. The full Annexure 11, individual collection dates and completed payments are not included in this PDF.

**Pinpoint:** Penalty paragraph 23, physical p. 13; operative and reporting paragraph 24, p. 14; communication, disposal and pronouncement paragraphs 25–27, p. 14. Administrative summary, p. 2.

### 04 In favour of

**The eligible Spriha Phases 5 and 6 homebuyers on ITC-benefit restitution, the disputed GST component and 18% interest. The note does not describe all wider complaints or all Shukhobrishti phases as allowed. The developer's accepted base liability and unquantified conditional penalty position remain qualified.**

Final substantive liability judgment. The Tribunal rejects the GST objection and gives reasoned treatment to the earlier unutilised-credit and fixed-price defences, alongside the developer's later acceptance of base findings. The wider complainant requests are recorded without being converted into additional awards.

**Pinpoint:** Paragraphs 14–24, physical pp. 10–14, read with the submissions at paragraphs 7–12, pp. 6–9.

### 05 AKHB REVIEW POINT

AKHB analysis: Separate the availability of credit, its actual utilisation and independent refund eligibility. A conditional observation about a possible credit refund is not a refund sanction. Document the precise project and rate election, and do not assume a fixed-price development agreement eliminates statutory pass-through.

Obtain Annexure 11 and DGAP's unrounded area allocation before making buyer-level calculations. Preserve the printed base despite the demonstrable table-reproduction tension until authoritative clarification is available. Reconcile the GST component, collection dates, continuing interest and proof of payment; do not treat the three-month reporting timetable as a substitute for the thirty-day penalty proviso. Check the separate treatment of other phases and ancillary charges rather than presenting the ITC award as comprehensive resolution of every grievance.

**Pinpoint:** AKHB commentary based on Table B and paragraphs 7–24, physical pp. 5–14; recommendations are distinct from the adjudicated directions.

## Sources and limitations

### Relevant provisions

CGST Act 2017: Section 171, additional ITC, fixed-price and recipient restitution issues; CGST Act 2017: Section 171(3A), stated penalty applicability and thirty-day deposit proviso; CGST Act 2017: Section 109(3), Principal Bench constitution context; CGST Rules 2017: Rules 128 and 129(1), complaint and investigation history; CGST Rules 2017: Rule 133(3)(b), operative recipient refund and interest; Central Tax Notification 18/2024 dated 30 September 2024, institutional empowerment; Central Tax (Rate) Notifications 3/2019 dated 29 March 2019 and 11/2017 dated 28 June 2017, recorded historical project-rate context.

### Statutory note

Targeted historical CGST Act/Rules and fresh official notifications were checked on 13 October 2026. Section 171(3A) commenced on 1 January 2020 and includes its thirty-day deposit proviso; the source does not quantify a rupee penalty. The 2018 Rules already contain recipient interest under Rule 133(3)(b). Reckitt's relevant passages were checked only within the stated pinpoint scope; its GST-component rationale concerns restitution of amounts collected, not a new taxable supply. Notification 18/2024 empowers the Principal Bench from 1 October 2024; Notification 19/2024 sets a new-request cutoff from 1 April 2025 without expressly ending pending cases. These contextual instruments are not silently added to the source's express merits citations. Fresh India Code current-consolidation retrieval failed by timeout/504; the successful Act compilation is expressly historical, as at 31 August 2021. No complete present-law certification is claimed. Notification 03/2019, read with its corrigendum and 10/2019, required an affirmative timely old-rate option for eligible ongoing projects; absent such an option, the applicable new-rate category was deemed chosen. The original's old-scheme recital is not the statutory default and the developer's actual election/category has not been independently verified. Historical Section 54(3) and Notification 15/2017 restrict unutilised-credit refunds, including the stated construction-service exclusion. Bengal paragraph 15's "if admissible" remark grants no refund or override of those conditions; this is supplementary context, not an issue separately decided in the original.

### Treatment note

On 13 October 2026 the independent reviewer freshly retrieved the official original and confirmed its exact selected hash, checked the official detail page and bounded final/interim listings, and performed exact-party/case/date searches on relevant official Supreme Court and High Court domains. No later correction, stay, reversal or appellate treatment was identified within that limited check; this does not establish that none exists or replace an exhaustive registry search. Full buyer annexures, payment evidence and compliance-report filing were not independently verified. Reckitt's cited primary passages were verified, without a complete current appellate-status certification.

### Scope of source review

One Principal Bench anti-profiteering judgment concerning Shukhobrishti–Spriha Phases 5 and 6. The developer initially challenged the ITC methodology and fixed-price implications, then accepted the report's base findings while maintaining its GST objection. The Tribunal gives its own reasons on unutilised credit, contractual pricing, GST and statutory remedies. The decision is not reduced to consent or portrayed as an award for every phase or every ancillary grievance. No ordinary GST appellate or complete GSTAT coverage is claimed.

## Identity note

NAPA/114/PB/2025; reference ZA070010426000131H; Court IV, A. Venu Prasad; typed order and visible digital-signature date 27 April 2026. Spriha Phases 5 and 6 only. Rs. 15,99,865 is the GST component, not a second base amount. The report says investigation from 1 April 2017 while the computation/contravention starts in July 2017. The Table B allocation cannot be exactly recreated from all displayed figures. Annexure 11, election documents and actual compliance are absent; wider grievances are not silently treated as granted.

## Primary source

**Source description:** Complete 14-page official PDF, including Form GST APL-04A and the reasoned final order. All original pages read and individually viewed by the AI author; source bytes preserved.

**Official source:** [Open source document](#)

**Source pages:** 14

**Outcome type:** final

## Additional source

Central Tax Notification 18/2024 dated 30 September 2024

**Source document:** [Open source document](#)

**Pinpoint:** Complete p. 1: Principal Bench empowerment from 1 October 2024. Context, not proof of an ordinary appellate proceeding.

Central Tax Notification 19/2024 dated 30 September 2024

**Source document:** [Open source document](#)

**Pinpoint:** Complete p. 1: new examination-request acceptance cutoff from 1 April 2025. No express termination of pending proceedings; does not resolve a particular filing chronology.

Historical CGST Act compilation as at 31 August 2021

**Source document:** [Open source document](#)

**Pinpoint:** Targeted Section 171(1)/(3A), physical p. 195. Section 54(3), physical pp. 89–90, is supplementary refund-eligibility context. Historical wording, not a fresh complete-current-statute certification.

Historical CGST Rules compilation as at 13 September 2018

**Source document:** [Open source document](#)

**Pinpoint:** Rule 133(3)(b)–(d), physical pp. 106–107: recipient interest and separate Fund remedy. Scoped historical text, not all 485 pages or a current codification.

Central Tax Notification 01/2020 dated 1 January 2020

**Source document:** [Open source document](#)

**Pinpoint:** Complete p. 1, read with the Act commencement footnote: commencement of Finance (No. 2) Act 2019 Section 112 inserting Section 171(3A).

Reckitt Benckiser India Private Limited v. Union of India, Delhi High Court, 29 January 2024

**Source document:** [Open source document](#)

**Pinpoint:** Targeted paragraphs 124–131, physical pp. 123–127, and 153–157, pp. 137–139: methodology, recipient-specific benefit, interest/penalty and collected GST. Not a full 142-page or current appellate-status certification.

Central Tax (Rate) Notification 11/2017 dated 28 June 2017

**Source document:** [Open source document](#)

**Pinpoint:** Entry 3(i), p. 1; land-value paragraph 2, p. 13; commencement paragraph 5, p. 14. Historical Central-tax text; no independent State-rate or present construction-rate certification.

Central Tax (Rate) Notification 03/2019 dated 29 March 2019

**Source document:** [Open source document](#)

**Pinpoint:** Targeted physical pp. 1–5 and 8–12: category/no-ITC conditions, affirmative old-rate option for eligible ongoing projects, definitions and commencement. No developer-specific election verified.

Corrigendum to Central Tax (Rate) Notification 03/2019 dated 25 April 2019

**Source document:** [Open source document](#)

**Pinpoint:** Complete p. 1: central-tax terminology/rate corrections; read with the historical notification.

Central Tax (Rate) Notification 10/2019 dated 10 May 2019

**Source document:** [Open source document](#)

**Pinpoint:** Complete p. 1: historical option deadline extended to 20 May 2019. This is not a current or case-order compliance deadline.

Central Tax (Rate) Notification 15/2017 dated 28 June 2017

**Source document:** [Open source document](#)

**Pinpoint:** Complete p. 1: historical Section 54(3) refund exclusion for Schedule II paragraph 5(b) construction services. No adjudication of a present refund application or later-amendment audit.

### 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.

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**Source checked:** 13 October 2026