

Director General of Anti-Profiteering v. Emaar India Ltd.

Case number: NAPA/153/PB/2025

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

Decision date: 6 July 2026

Gurgaon Greens: project-cost ITC comparison, recipient-specific shortfalls and rejection of cross-buyer set-off

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

Bench: Justice Mayank Kumar Jain, Member (Judicial), and A. Venu Prasad, Member (Technical), Division Bench, Court II; reasons by A. Venu Prasad

Decision stage: Final reasoned judgment requiring Rs. 67,32,464, inclusive of GST, for 232 eligible homebuyers with 18% interest from respective excess collections until actual return; cross-buyer set-off rejected and Section 171(3A) penalty expressly unavailable for the pre-2020 period.

01 Facts of case and issues

Raman Kumar Kalia complained that Emaar India had not passed on additional input-tax-credit benefit for flat GGN-04-0602 in Gurgaon Greens. After Standing Committee referral, DGAP submitted an initial report dated 29 October 2020. Following Delhi High Court's Reckitt judgment of 29 January 2024, CCI remanded the matter on 20 March 2024. DGAP's fresh report was dated 3 December 2024.

The investigation ran from 1 July 2017 to the project's occupancy certificate on 16 July 2019. The source records 642 units: 435 pre-GST bookings, 142 post-GST bookings before that certificate and 65 later bookings. It considered 577 eligible buyers. These project counts are distinct from the 232 residual award recipients.

The adopted comparison uses pre-GST service-tax and VAT credit totalling Rs. 12,69,22,100 against purchases of Rs. 1,34,84,28,494, and post-GST credit of Rs. 24,86,30,369 against purchases of Rs. 2,09,79,11,924. The displayed ratios are 9.41% and 11.85%, a 2.44-percentage-point difference. Table B records project savings of Rs. 5,11,62,436.37, total saleable area of 11,91,366 square feet, displayed savings of Rs. 42.94 per square foot and sold area of 7,27,150 square feet. Its base amount is Rs. 3,12,26,983; adding Rs. 37,47,238 GST gives Rs. 3,49,74,221.

Emaar relied on Rs. 3,21,54,840 said to have been passed through credit notes and adjustments. It argued that higher input-tax incidence did not necessarily create an economic saving, offered an alternative 0.46% ratio and Rs. 58,90,116 calculation, sought linkage to actual post-GST receipts, disputed GST inclusion and challenged procedure and limitation. It also requested a Fund route for untraceable or non-claiming buyers and contested interest and penalty. These are submissions, not the final award.

01 Facts of case and issues

The report's paragraph 12(vii) lists Rs. 2,15,27,181 passed to 204 buyers and Rs. 1,06,27,650 to 226 buyers, with a Rs. 55,85,980 shortfall for the latter group; it then refers to 436 identifiable recipients and Rs. 67,32,464 including GST. Paragraph 43 separately identifies Rs. 69,38,986 as the excess above entitlement for the 204 buyers. Paragraphs 44 and 56 identify 232 remaining beneficiaries. The paid amount, excess, shortfall, identifiable-recipient count and operative count are not interchangeable.

Pinpoint: Complaint and procedural history: paragraphs 3–12, physical pp. 3–8. Calculation tables and groups: paragraph 12, pp. 5–8. Party submissions: paragraphs 14–15, pp. 9–18. Own recipient-specific findings: paragraphs 40–44 and 56, pp. 35–37 and 41–42.

02 Discussion by Hon'ble Tribunal

The Tribunal formulates four substantive issues and supplies its own reasons. On methodology, paragraphs 20–24 apply Reckitt's case-specific approach and its construction-project discussion. GSTAT accepts this project's comparison of eligible credit to construction cost/purchase value, followed by allocation of project savings over saleable area. It rejects an exclusive link to actual post-GST receipts and the argument that absence of one prescribed formula invalidates the proceeding. The note attributes that application to this record; it does not make every purchase-ratio exercise universally correct.

Paragraphs 25–31 reject the referral, notice, scope and limitation objections on the recorded facts. GSTAT finds that the Standing Committee examined material, Emaar received notices, supplied records, made extensive submissions and accessed non-confidential documents, without demonstrating specific prejudice. It holds that a valid project inquiry need not stop at the single complainant. For time limits, it relies on Reckitt paragraph 158, whose reproduced conclusion specifically concerns furnishing DGAP reports; this is not a declaration that every tax or appellate deadline is directory.

Paragraphs 32–39 find actual additional credit available for this project on both goods and input services, reject the proposed goods-only restriction and refer to CBEC's historical construction clarification. The note does not independently confirm every ledger item or extend the 2017 explanation to all later construction-rate options. Emaar's continuous-supply, credit-note and refund-circular arguments remain attributed submissions; the final does not issue a separate general ruling on every cited instrument.

The decisive set-off reasoning is recipient-specific. Paragraphs 40 and 43 accept credit where supported by the furnished records but refuse to extinguish one buyer's entitlement using excess passed to another buyer. Paragraph 43 permits adjustment of a particular recipient's excess only with that same recipient. Thus the expressly ordered Rs. 67,32,464 cannot be replaced by mechanically subtracting the aggregate Rs. 3,21,54,840 from the gross Rs. 3,49,74,221. Nor is the gross figure ordered for a second payment. The public extract still does not supply the complete ledger needed to reconcile all groups and residual figures.

Numerical and drafting limits remain material. The two payment figures on page 8 total Rs. 3,21,54,831, nine rupees below the repeatedly stated aggregate Rs. 3,21,54,840. Paragraph 12(vii)'s 436 identifiable recipients and paragraph 43's 226 shortfall buyers do not independently explain the later 232-recipient count. The Rs. 2,15,27,181 paid amount must not be treated as identical to the separately stated Rs. 69,38,986 excess. Rounded 2.44% and Rs. 42.94 do not directly reproduce the totals, though unrounded ratios from the printed Table A inputs produce approximately Rs. 5,11,62,436.37 savings and Rs. 3,12,26,982.81 base, consistent with the rounded adopted base. That limited arithmetic check is not an audit of underlying returns or buyer allocations. Paragraph 42 also refers to issues (i)/(ii) within a discussion introduced for (ii)/(iii); the note preserves the original paragraph references.

02 Discussion by Hon'ble Tribunal

On interest, paragraphs 45–50 apply Rule 133(3)(b) and explain that delayed proceedings do not eliminate compensation for withholding a recipient's benefit. Interest runs from the respective excess collections to actual return, not from the last instalment or a uniform assumed date. The truncated reproduced Reckitt quotation is not repeated as an exact authoritative quotation.

On penalty, paragraphs 51–54 accept the developer's temporal defence: the entire 1 July 2017–16 July 2019 period preceded Section 171(3A)'s 1 January 2020 commencement. That is an express case-specific non-retrospective ruling, not an exemption from principal or interest and not a thirty-day-payment condition. The amount remains payable directly to eligible homebuyers; the word deposit in the final direction does not turn it into a Consumer Welfare Fund award.

Pinpoint: Issues and methodology: paragraphs 17–24, physical pp. 18–26. Procedure and timing: paragraphs 25–31, pp. 26–30. Benefit and buyer-level set-off: paragraphs 32–44, pp. 30–37. Interest: paragraphs 45–50, pp. 37–40. Penalty: paragraphs 51–54, pp. 40–41. Source calculation and count cautions: pp. 6–8, 36–37 and 41–42.

03 Judicial decision and operative relief

GSTAT accepts DGAP's 3 December 2024 report and holds that the remaining Rs. 67,32,464, inclusive of GST, must reach the 232 eligible homebuyers identified in the reasons. Paragraph 58 directs that amount with 18% annual interest from collection of the higher amount until its actual return to eligible buyers. Read with paragraphs 46 and 50, the start dates are the respective excess collections. No further GST layer, substitute principal, universal starting date or rupee interest total is added.

This is recipient restitution, not a Fund deposit. The earlier gross Rs. 3,49,74,221 and acknowledged passing-on Rs. 3,21,54,840 remain relevant context; the operative residual is not a simple aggregate net calculation. Actual buyer-level entitlements, collections and later payments have not been independently established from annexures.

Paragraphs 51–54 expressly decline penalty under Section 171(3A) because the entire adjudicated period precedes its commencement. The final contains no numerical payment deadline or fixed Commissioner-report period. Paragraph 59 sends copies to the jurisdictional CGST/SGST Commissioner for necessary action and to the applicant; that is not converted into a three- or four-month report obligation.

The judgment is pronounced in open court. Its cover and typed date are 6 July 2026. Visible signatures on the last page show that date at 16:29:19 for Mayank Kumar Jain and 16:30:38 for A. Venu Prasad; no cryptographic assurance is claimed. Actual refund, interest payment and subsequent enforcement remain unverified.

Pinpoint: Net principal and beneficiary count: paragraphs 44 and 56, physical pp. 37 and 41–42. Interest and penalty: paragraphs 46, 50–54, pp. 38 and 40–41. Operative directions, pronouncement and signatures: paragraphs 57–60, p. 42.

04 In favour of

Mixed. The authority and 232 remaining eligible homebuyers prevail on recipient-specific principal and interest, with the methodology and cross-buyer set-off objections rejected. Emaar retains credit for supported benefit already passed and succeeds on the non-retrospective Section 171(3A) penalty issue. Neither full payment nor an unqualified developer victory is inferred.

Final substantive adjudication of contested methodology, procedure, additional-ITC benefit, individual entitlement, interest and penalty. The outcome is mixed because the principal and interest survive while Section 171(3A) penalty is expressly unavailable. This classification does not certify appellate exhaustion or current enforceability.

Pinpoint: Paragraphs 20–60, physical pp. 20–42, especially 40, 43–54 and 56–58.

05 AKHB REVIEW POINT

AKHB analysis: Build a buyer-level bridge from project credit and purchase records to the allocation method, the benefit already passed to each buyer and that buyer's surviving shortfall. Aggregate credits or voluntary reductions alone cannot answer a recipient-specific claim. Preserve clear distinctions between paid amounts, entitlement, excess and residual liability.

Retain unrounded working calculations behind displayed ratios and per-square-foot figures. Check the unit universe, booking and occupancy dates, post-completion exclusions and annexure membership. Identify unexplained count or arithmetic differences without silently replacing the Tribunal's ordered figure with a preferred reconstructed sum.

Keep principal, collection-to-return interest and temporal penalty analysis separate. Document actual collection and refund dates; do not borrow another project's last instalment benchmark or reporting deadline. Review the full source and current court treatment before relying on the result, including any subsequent clarification of the recipient schedule. These are practical review points, not additional judicial directions.

Pinpoint: AKHB commentary based on paragraph 12 and paragraphs 20–60, physical pp. 5–8 and 20–42.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 171 and Section 171(1), operative additional-ITC pass-through and recipient-specific liability; CGST Act 2017: Section 171(3A), express non-retrospective penalty ruling; CGST Act 2017: Section 109(3), Principal Bench constitution context; CGST Act 2017: Section 2(33), continuous-supply submission; CGST Act 2017: Section 34, respondent's credit-note/GST-inclusion objection; CGST Rules 2017: Rule 128, complaint and referral objections; CGST Rules 2017: Rule 129 and Rules 129(1) and 129(6), investigation, report and timing history; CGST Rules 2017: Rule 126, case-specific methodology discussion; CGST Rules 2017: Rule 133, timing objection and remedial context; CGST Rules 2017: Rule 133(3)(b), operative buyer return and 18% collection-to-return interest; CGST Rules 2017: Rule 133(3)(c), respondent's proposed Fund route, not the ordered destination; CGST Rules 2017: Rules 113(1) and 115, administrative Form GST APL-04A heading only; Finance (No. 2) Act 2019, source record of Section 171(3A) insertion and 1 January 2020 commencement; Central Tax Notification 18/2024 dated 30 September 2024, Principal Bench empowerment from 1 October 2024; Central Tax (Rate) Notification 11/2017 dated 28 June 2017, historical construction-rate and land-abatement context; CBIC Circular 188/20/2022 dated 27 December 2022, respondent's refund/GST-inclusion submission; CBEC clarification dated 15 June 2017 on reduced construction-tax liability, quoted historical context.

Statutory note

Targeted India Code, Notification 01/2020 and the historical official rules confirm the pass-through framework, Section 171(3A) commencement and pre-existing 18% recipient-return interest under Rule 133(3)(b). Notification 18/2024 verifies Principal Bench empowerment from 1 October 2024. The Tribunal's wholly pre-2020 penalty ruling is distinct from the statutory thirty-day proviso, which is not imposed as a condition of relief here. Reckitt's primary paragraphs 124–129 support case-specific methodology and project-area allocation; paragraph 158 concerns DGAP-report time, not every statutory deadline. Emaar's reproduced paragraph 153 omits part of the primary and ends incompletely, so only its supported ancillary-power proposition is paraphrased. Sections 2(33) and 34, Circular 188/20/2022, the historical construction-rate instrument and the 15 June 2017 CBEC clarification retain their stated submission/context roles; those complete instruments were not independently re-audited for this note. Gopal Teknocon, B.G. Shirke and P.T. Rajan remain attributed citations or quoted history, not independently certified full authorities.

Treatment note

A fresh normal-TLS official download exactly matches the collected original. Bounded official-domain, party-name and docket/date searches through 14 October 2026 identified no authenticated later case-specific order modifying, staying or reversing this precise judgment. Search absence is not a no-appeal/no-stay, current-enforceability or compliance certificate; no complete docket was audited. The official listing identifies a revised original, while the cover, typed order and visible signatures are dated 6 July 2026. No superseded version is silently reconstructed, and the public source does not establish actual buyer refunds or reconcile the complete buyer ledger.

Scope of source review

One final reasoned Principal Bench anti-profiteering judgment for Gurgaon Greens, addressing contested methodology, statutory benefit, procedure, recipient-specific set-off, interest and penalty. The own reasons in paragraphs 20–54 extend beyond adopting a DGAP report. The public numerical narrative does not provide a complete buyer-ledger reconciliation; source ambiguities are retained. No universal real-estate formula or complete GSTAT coverage is claimed.

Identity note

NAPA/153/PB/2025; reference ZA070010726000029H; Division Bench Court II, Mayank Kumar Jain and A. Venu Prasad, reasons by A. Venu Prasad. Administrative, typed and visible signature date 6 July 2026; appeal-reference date 4 December 2024 is distinct. Investigation ends with the 16 July 2019 occupancy certificate. Official listing identifies a revised original. Gross, prior-paid, excess and residual figures remain distinct; page 8 payment sum differs by Rs. 9, and 577/436/226/232 buyer counts are not silently reconciled. Final Rs. 67,32,464 includes GST, payable to 232 eligible buyers with 18% respective-collection interest; no Section 171(3A) penalty or numerical payment/report period.

Primary source

Source description: Complete 42-page official PDF; all original text pages read by the AI author and targeted identity, calculation and operative images inspected. Independent all-page visual review is separately attributed.

Official source: [Open source document](#)

Source pages: 42

Outcome type: mixed

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.

Official CGST Rules consolidation, September 2018

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 106–107: Rule 133(3)(b) recipient-return interest and historical footnote; consolidation rather than original Gazette.

Central Tax Notification 01/2020, 1 January 2020

Source document: [Open source document](#)

Pinpoint: Complete one-page instrument: Finance (No. 2) Act 2019 Section 112 commences on 1 January 2020.

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.

Reckitt Benckiser, Delhi High Court, 29 January 2024

Source document: [Open source document](#)

Pinpoint: Targeted paragraphs 124–135 and 151–161, physical pp. 123–129 and 136–140: case-specific construction method, price-benefit mode, ancillary powers, GST, report time and scope. No full 142-page reread.

Disclosures and source rights

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

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