

GSTAT
Single Bench Court No. 3

NAPA/73/PB/2025

DGAP

.....Appellant

Versus

Ireo Pvt. Ltd. (City Central, Managed Service
Apartment, Skyon)

.....Respondent

Counsel for Appellant

Counsel for Respondent

Hon'ble Sh. Anil Kumar Gupta, Member (Technical)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA071025000152H

Date of order : 28/10/2025

1.	GSTIN/Temporary ID/UIN - 06AAACO6644B1ZS	
2.	Appeal Case Reference no. - NAPA/73/PB/2025	Date - 09/01/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Ireo Pvt. Ltd. (City Central, managed service apartment, skyon) , gaurav.bansal@ireo.in	
5.	Order appealed against -	

	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 28/10/2025 09/10/2025 11/09/2025 08/09/2025 18/08/2025 11/08/2025 09/07/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - DGAP on the basis of investigation concluded that post- GST, no benefit of reduction in rate of tax or benefit of Input Tax Credit accrued to the Respondent in respect of the project “Skyon”, “Ireo City Central” and “Managed Service Apartment”. Therefore, the Tribunal finds that the provisions of Section 171 of the CGST ACT, 2017 are not attracted against the Respondent Project “Skyon”, “Ireo City Central” and “Managed Service Apartment”. The proceedings in the present case are accordingly dropped.	
Summary of Order		
9.	Type of order : Closure Report	

Place :DELHIPB

Signature

Date : 28.10.2025

DELHIPB Sandeep

Designation : Stenographer/Law researcher

Jurisdiction :Delhi (PB)

ORDER

1. This proceeding arises out of Investigation Order No. 14/2019 dated 21.10.2019, issued by the *National Anti-Profiteering Authority*, under the provisions of *Section 171* of the *Central Goods and Services Tax Act, 2017*

(hereinafter referred to as "the Act") read with *Rule 133(5)(a)* of the *Central Goods and Services Tax Rules, 2017* (hereinafter referred to as "the Rules"). The said order directed investigation into all projects being executed by the Respondent, M/s Ireo Grace Realtech Pvt. Ltd., for alleged violation of the Anti-Profiteering provisions of the Act.

2. Pursuant to the said direction, the *Directorate General of Anti-Profiteering (DGAP)* conducted detailed investigations into three projects of the Respondent namely "Skyon," "Ireo City Central," and "Managed Service Apartment," executed by M/s Ireo Pvt. Ltd. and submitted its first report dated 15.12.2021 under *Rule 129(6)* of the CGST Rules, 2017.
3. Subsequently, upon consideration of the principles of law enunciated by the *Hon'ble High Court of Delhi* in *Writ Petition No. 7743/2019 and connected matters (Reckitt Benckiser India Pvt. Ltd. v. Union of India & Ors.)*, decided on 29.01.2024, wherein the methodology adopted by the NAA and DGAP for real estate cases was extensively reviewed, the Commission directed DGAP to carry out re-investigation of the present matter.

The relevant part of the Hon'ble Delhi High Court's judgment dated 29.01.2024 in *W.P. (C) No. 7743/2019* and connected matters, which have a direct bearing on the method of computation of profiteering in real estate matters is reproduced here:

(i) Para 124. NO FIXED/UNIFORM METHOD OR MATHEMATICAL FORMULA CAN BE LAID DOWN FOR DETERMINING PROFITEERING

This Court is of the view that no fixed/uniform method or mathematical formula can be laid down for determining profiteering as the facts of each case and each industry may be different. The determination of the profiteered amount has to be computed by taking into account the relevant and peculiar facts of each case. There is 'no one size that fits all' formula or method that can be prescribed in the present batch of matters. Consequently, NAA has to determine the appropriate methodology on a case to case basis keeping in view the peculiar facts and circumstances of each case.

(ii) Para 128. There is no dispute with regard to the methodology to be adopted in the following four scenarios:

(a) If the flat was completely constructed in the pre Goods and Services Tax period i.e. before 01st July, 2017 and if it was purchased by making upfront payment of the whole price in the pre Goods and Services Tax period no benefit

of Input Tax Credit would be required to be passed on as the price will include the cost of taxes on which input tax credit was not available in the pre Goods and Services Tax period viz. Central Excise Duty, Entry Tax etc.

(b) If the construction of the flat had started in the pre Goods and Services Tax period and continued/completed in the post Goods and Services Tax period and a buyer purchased the flat by making full upfront payment in the post Goods and Services Tax period, he is entitled to the benefit of Input Tax Credit on the material which has been purchased in respect of this flat during the post Goods and Services Tax period and on which benefit of Input Tax Credit has been availed by the builder. The builder has to reduce the price commensurately and pass on the benefit.

(c) If the construction of the flat is started in the pre Goods and Services Tax period and its construction was continued in the post Goods and Services Tax period and it was purchased by the consumer by paying the full amount of price upfront in the pre Goods and Services Tax period, the buyer is entitled to claim benefit of Input Tax Credit on the taxes paid on the construction material purchased by the builder in the post Goods and Services Tax period during which he has been given benefit of Input Tax Credit on the taxes on which Input Tax Credit was not available in the pre Goods and Services Tax and cost of such taxes has been built in the price of the flat by the builder.

(d) If the flat is constructed in the post Goods and Services Tax period and it is purchased after construction being complete by making upfront payment of the full price, no benefit of Input Tax Credit would be available as the price of the flat would have been fixed after taking into account the Input Tax Credit which has become available to the builder in the post Goods and Services Tax period and which was not available to him in the pre Goods and Services Tax.

Further, the Hon'ble Delhi High Court, vide Para 129 of its Order 29.01.2024 observed that:

"However, this Court finds that methodology adopted by NAA and DGAP to arrive at profiteering amount of the real estate industry was generally based on the difference between the ratio of Input Tax Credit to Turnover under the pre-GST and post-GST period. This Court is in agreement with the contention of the learned counsel of the Petitioners representing the real estate companies that the methodology adopted by NAA is flawed as in the real estate sector there is no direct correlation between the turnover and the ITC availed for a particular period. The expenses in a real estate project are not uniform throughout the life cycle of the project and the eligibility of credit depends on the nature of the construction activity undertaken during the particular period. As it is an admitted position that neither the advances received nor

the construction activity is uniform throughout the life cycle of the project, the accrual of Input Tax Credit is not related to the amount collected from the buyers. This Court is in agreement with the Learned Counsel Petitioners that one needs to calculate the total savings on account of introduction of Goods & Services Tax for each project and then divide the same by total area to arrive at the per square feet benefit to be passed on to each flat-buyer This would ensure that flat-buyers with equal square feet area received equal benefit. The Court, while hearing the present batch of matters on merits, shall take aforesaid directions/interpretations into account."

4. Accordingly, for re-investigation a notice under Rule 129 of the CGST Rules was issued by DGAP to the Respondent on 09.04.2024, followed by multiple communications calling for relevant records, accounts, and explanations. The Respondent furnished detailed responses vide various letters and emails dated 29.04.2024 to 18.08.2025, along with statutory returns (GSTR-1, GSTR-3B, GSTR-9), input tax records, balance sheets, and project-specific CENVAT and GST ledgers.
5. DGAP, in accordance with the High Court's directions, adopted a revised project-wise approach focusing on the *ratio of Input Tax Credit (ITC) to total purchase value* rather than comparing turnover. The resultant

findings show a reduction, rather than enhancement, in the proportion of ITC after the introduction of GST.

6. Project Name- "SKYON"

6.1 The Noticee submitted that the project "Skyon" was launched in December 2010, with the Occupation Certificate for both phases issued on 14.09.2017. Since construction was completed before the implementation of GST on 01.07.2017, the provisions of Section 171 of the CGST Act, 2017, would not apply, as held in the Hon'ble Delhi High Court's judgment in *Reckitt Benckiser India Pvt. Ltd. v. Union of India*, W.P.(C) 7743/2019. The Court clarified in paragraph 128 of its judgment that if a flat is fully constructed before 01st July 2017 and purchased with full payment made in the pre-GST period, no benefit of Input Tax Credit (ITC) needs to be passed on since the price already includes cost of non-creditable taxes such as Central Excise Duty and Entry Tax.

6.2 The Noticee also confirmed its option to pay GST at the old rate, availing ITC pursuant to Notification No. 3/2019-CT (R) dated 29.03.2019. Further, it availed the

Haryana VAT Amnesty Scheme under which no ITC was admissible, explaining the absence of such records.

6.3 DGAP found that the Noticee continued to avail input tax credit after the receipt of Occupation Certificate also, the period covered by the current investigation for calculation of profiteered amount is from 01.07.2017 to 31.03.2024.

6.4 The current investigation covers the period from 01.07.2017 to 31.03.2024 regarding computation of alleged profiteering. Prior to GST implementation, the Respondent was eligible to avail CENVAT credit on service tax paid but not on central excise duty as per the then prevailing CENVAT Credit Rules, 2004. Post-GST, the Respondent availed Input Tax Credit (ITC) on GST paid on inputs and input services.

6.5 From the information submitted by the Noticee for the period April, 2012 to March, 2024, the details of the input tax credit availed by them, their purchase value of Goods and Services (Purchase Value) of the project "SKYON" and the ratio of input tax credit to the purchase value of Goods and Services, during the pre-GST (April, 2012 to June, 2017) and post-GST (July, 2017 to March, 2024) periods were calculated and are furnished in table-

'A' below

Table-'A'

(Amount in Rs)

Sr. No.	Particulars	Pre-GST Period	Post-GST Period
1.	Purchase Value of Goods and Services (Excluding Taxes and Duties)	5,13,87,58,946	1,14,00,46,423
2.	Credit of Service Tax availed	31,64,28,447	-
3.	Credit of VAT availed	-	-
4.	Total Credit Availed in Pre-GST Period	31,64,28,447	-
5.	ITC of GST Availed	-	73,93,179
6.	Ratio of Credit Availed to Purchase Value (in %)	6.16	0.65

6.6 As multiple projects operated under same registration, purchase values for "Skyon" were proportionately derived based on area ratios (16,38,434 sq. ft. of "Skyon" to 64,81,603 sq. ft. total), yielding pre-GST purchase value of Rs. 5,13,87,58,946 and post-GST

purchase value of Rs. 1,14,00,46,423.

6.7 For the pre-GST period (April 2012 to June 2017), the Noticee availed CENVAT Credit amounting to Rs. 31,64,28,447 for the "Skyon" project. The Noticee has availed ITC Credit of Rs. 4,40,97,274/- in respect of the project "Skyon" from July 2017 to March 2024. The Noticee has also submitted that the Input Tax Credit of Rs. 1,40,86,992/- was reversed in accordance with Rule 37 of the CGST Rules, 2017, due to a delay of more than 180 days in making payment towards the value of supply along with applicable tax to the concerned suppliers. Further, the Noticee has also submitted the copy of DRC-03 form dated 18.10.2019 for reversal of ITC of Rs. 3,68,55,580/- on account of receipt of Occupancy Certificate. Additionally, the amount of Rs. 1,42,38,477/- availed as transitional credit in respect of the goods needs to be added to determine the amount of ITC availed as attributed to the introduction of GST. Accordingly, the figure of Rs. 73,93,179/- ($4,40,97,274 - 1,40,86,992 + 1,42,38,477 - 3,68,55,580$) during the post-GST period from July, 2017 to March, 2024 has been considered for the computation of profiteering.

6.8 The pre-GST CENVAT Credit was calculated at Rs.

31,64,28,447, while post-GST ITC was Rs. 73,93,179 after reversing ineligible ITC and adjusted transitional benefit. When these are compared to the overall purchase values of Rs. 5,13,87,58,946 (pre-GST) and 1,14,00,46,423 (post-GST), the ratio of credit stood at 6.16% and 0.65%, respectively.

6.9 The ratio having declined, no incremental benefit or savings accrued to the Respondent as a consequence of GST introduction; hence, there was no profiteering in this project.

7. Project Name- "Ireo City Central" and "Managed Service Apartment"

7.1 The Respondent has informed that the projects "Ireo City Central" and "Managed Service Apartment" are not distinct but jointly constructed and developed under a single commercial license with a single contractor. The former project was launched in June 2012 and has received the Occupancy Certificate, whereas the latter project launched in February 2012 is yet to receive the same.

7.2 The current investigation covers the period from 01.07.2017 to 31.03.2024 regarding computation of alleged profiteering. Prior to GST implementation, the

Respondent was eligible to avail CENVAT credit on service tax paid but not on central excise duty as per the then prevailing CENVAT Credit Rules, 2004. Post-GST, the Respondent availed Input Tax Credit (ITC) on GST paid on inputs and input services.

7.3 From the information submitted by the Noticee for the period April, 2012 to March, 2024, the details of the input tax credit availed by them, their purchase value of Goods and Services (Purchase Value) of the project "Ireo City Central" and "Managed Service Apartment" and the ratio of input tax credit to the purchase value of Goods and Services, during the pre-GST (April, 2012 to June, 2017) and post-GST (July, 2017 to March, 2024) periods were calculated and are furnished in table- 'B' below:

Table-'B' (Amount in Rs)

	Particulars	Pre-GST Period	Post-GST Period
1.	Purchase Value of Goods and Services (Excluding Taxes and Duties)	1,17,59,37,173	26,08,84,580
2.	Credit of Service Tax availed	7,16,92,557	-
3.	Credit of VAT availed	-	-

4.	Total Credit Availed in Pre- GST Period	7,16,92,557	-
5.	ITC of GST Availed	-	9,58,827
6.	Ratio of Credit Availed to Purchase Value (in %)	6.10	0.37

7.4 The Noticee has claimed the Cenvat Credit for the pre-GST period from April, 2012 to June, 2017 is Rs.7,16,92,557/- and ITC Credit of Rs. 6,80,44,335/- for the post-GST period from July 2017 to March 2024 for the "Ireo City Central" and "Managed Service Apartment" projects. The Noticee has also submitted the reversal of the Input Tax Credit of Rs.3,39,60,955/- in accordance with Rule 37 of the CGST Rules, 2017, due to a delay of more than 180 days in making payment towards the value of supply. However, the Noticee submitted that the amount of input tax credit of Rs. 51,48,323/- has been reclaimed at later date. Further, the Noticee has also submitted the copy of DRC-03 form of DRC-D10610190086034 dated 18.10.2019 for reversal of ITC of Rs.4,56,44,420/- on account of receipt of Occupancy Certificate. the amount of Rs. 73,71,544/-

availed as transitional credit in respect of the goods needs to be added to determine the amount of ITC availed as attributed to the introduction of GST. Accordingly, the figure of Rs. 9,58,827/- (6,80,44,335-3,39,60,955 + 51,48,323 + 73,71,544 - 4,56,44,420) during the post-GST period from July, 2017 to March, 2024 has been considered for the computation of profiteering.

7.5 Because the Respondent operates multiple projects under one registration, exact verification with audited accounts was not feasible. The Respondent apportioned the purchase values to this project based on the ratio of saleable area of this project (3,74,934 sq. ft.) to total saleable area of all projects (64,81,603 sq. ft.), arriving at a ratio of approx. 5.78%. The apportioned purchase values considered were Rs. 1,17,59,37,173/- (pre-GST) and Rs. 26,08,84,580/- (post-GST).

7.6 Computing the ITC-to-purchase value ratios reveals a decline from 6.10% (pre-GST) to 0.37% (post-GST), indicating that the Respondent did not drive any benefit on account of availment of ITC which needs to be passed on to consumers under Section 171 of the CGST Act, 2017.

8. The Tribunal has considered the DGAP's Report

dated 20.08.2025 in its hearing on 09.10.2025. During the hearing, the DGAP's representative submitted that the investigation on these projects was ordered by CCI and there was no direct complaint received against these projects. The tribunal needs to determine as to whether there was any reduction in the GST rate or benefit of ITC and whether the benefit of rate reduction or ITC was passed on or not to the recipients as provided under section 171 of the CGST Act, 2017.

9. The Tribunal find that the DGAP has verified the documents submitted by the Respondent as well as statutory returns filled by him, the methodology applied by DGAP for calculating the ratio of ITC to total construction cost, in line with the Hon'ble High Court's ruling, appropriately captures the economic effect of GST implementation on the project's cost structure and ensures that profiteering analysis remains contextual.

10. From the above, it can be concluded that post- GST, no benefit of reduction in rate of tax or benefit of Input Tax Credit accrued to the Respondent in respect of the project "Skyon", "Ireo City Central" and "Managed Service Apartment". Therefore, the tribunal finds that the provisions of Section 171 of the CGST ACT, 2017 are not

attracted against the Respondent Project "Skyon", "Ireo City Central" and "Managed Service Apartment". The proceedings in the present case are accordingly dropped.

11. A copy of this order be supplied to the respondent and the concerned Commissioner CGST/SGST for necessary action.

12. Final order signed, dated and pronounced in the open court today.

Sd/-
(Sh. Anil Kumar Gupta)

Dated: 28.10.2025

S.P

Digitally signed by ANIL KUMAR GUPTA
Date:28-10-2025 03:00:06 AM