GSTAT

Court No. 1

NAPA/38/PB/2025

DG ANTI PROFITEERING, DIRECTOR GENERAL OF ANTI-PROFITEERING, DGAP **.....Appellant**

Versus

SAMSUNG INDIA ELECTRONICS PVT. LTD. **.....Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President
Hon'ble Sh. A. Venu Prasad, Member (Technical)

ORDER

The matter is taken up today in physical mode.

Shri Harkesh Meena, Assistant Commissioner–Authorized Representative, assisted by Shri Anurag Gupta, Inspector, appear on behalf of the DGAP.

Shri Puneet Agrawal, learned Advocate, assisted by Ms. Sakshi, learned Associate Advocate appear before us virtually on behalf of the Respondent. Ms. Purvi, learned Advocate appears in-person before us for the Respondent. Shri Subodh Mohan and Shri Nikhil Agrawal employees of the Respondent Company also appear before us virtual for the Respondent.

This matter had earlier been reserved for pronouncement of Final Order. However, after considering the matter and upon conference between the two Members of the Bench [the President and the Technical Member (State)], we have decided that the DGAP should re-examine certain issues in the light of the observations made in this order.

During the course of hearing, the learned Counsel appearing for the Respondent raised certain objections regarding the findings of the DGAP, which were duly noted. However, at present it would be appropriate for us to take note of those questions on which further re-examination by the DGAP is required. Those questions are as follows:

1. Whether the DGAP, while calculating the profiteered amount, ignored the negative values, especially with reference to annexure-12 of the DGAP Report?

2. Whether supply to the CSD channel has been erroneously considered by the DGAP?
3. Whether the DGAP while calculating the alleged profiteering amount, ignored the increase in cost of materials / prices, custom duty etc., especially in September 2018?

The learned Counsel appearing for the Respondent reiterated paragraphs 97 and 98 of the latest submissions, which are quoted below:

97. It is submitted that the Ld. DGAP has not contested any figure submitted by the Respondent during the course of hearing. In case any specific computation is required to be made, then adequate opportunity be granted.
98. It is submitted that, in response to the factors affecting cost, both specific factors as well as general factors (as elaborated above) were placed on record; however, no specific rebuttal or submission has been made by the DGAP. Further, the DGAP has not considered the increase in cost in its Report. Hence, in case there are any issues or clarifications qua computation of any of the factors, or if any computation is required to be made pursuant to any observations or findings of this Hon'ble Tribunal, an adequate opportunity be granted to the Respondent to put forth its stand in that regard [underlined to supply emphasis].

The DGAP shall examine the aforesaid issues. If it is found that negative values were ignored, or that supply to the CSD channel was erroneously considered, or that the change in prices in September 2018 was not taken into consideration without justifiable reasons, then it would be appropriate for the investigating authority (DGAP) to re-examine the matter along with all relevant evidence and submit a supplementary report within a specified time. The Hon'ble High Court of Delhi while considering the impact of Section 171 of the CGST Act in the case of Reckitt Benckiser India Pvt. Ltd., agreed with the submission of learned Amicus Curiae that if there is any variation of prices / costs on account of other factors, such as any costs necessitating the setting off of such reduction of price, the same needs to be justified by the supplier. The inherent presumption that these must necessarily be a reduction in prices of the goods and services is a rebuttable presumption. However, Hon'ble High Court of Delhi clarified that if the supplier is to assert reasons for offsetting the reduction, it must establish the same on cogent basis and must not use it merely as a device to circumvent the statutory obligation of reducing the prices in a commensurate manner contemplated under Section 171 of the CGST Act, 2017. Thus, we further direct that, by following the ratio decided by Hon'ble High Court of Delhi that while re-examining the matter especially with respect to increase in costs etc., aforesaid view of the Hon'ble Delhi High Court should be kept in mind by the DGAP

The Respondent shall also extend all necessary cooperation to the DGAP wherever required.

The learned Assistant Commissioner submits that two months time would be sufficient for this purpose. Accordingly, without expressing any opinion on the merits of the case, at

present, we hereby direct the DGAP to re-consider the aforesaid questions and submit a supplementary report within two months.

List the matter on **12.05.2026**, awaiting the supplementary report.

Digitally signed by SANJAY KUMAR MISHRA
Date:10-03-2026 13:11:30 PM

Sd/-
(S.K. Mishra, President GSTAT, PB.)

Digitally signed by ARABANDI VENU PRASAD
Date:10-03-2026 14:36:22 PM

Sd/-
(Sh. A. Venu Prasad)

Dated: 09.03.2026