GSTAT

Division Bench Court No. 1

NAPA/166/PB/2025

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

Versus

TATA PLAY LIMITED (FORMERLY TATA PLAY LIMITED) **.....Respondent**

Counsel for Appellant **Counsel for Respondent**

Hon'ble Justice (Retd.) Dr. Sanjaya Kumar Mishra, President

Hon'ble Sh. A. Venu Prasad, 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. : ZA070010326000026H **Date of order :** 11/03/2026

1.	GSTIN/Temporary ID/UIN - 27AAGCS9294M1ZF	
2.	Appeal Case Reference no. - NAPA/166/PB/2025	Date - 31/08/2021
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	

4.	Name of the respondant - 1. Tata Play Limited (formerly Tata Play Limited) , taxation@tatasky.com , 9819916465	
5.	Order appealed against -	
	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 11/03/2026 18/02/2026 30/01/2026 07/01/2026 09/12/2025 11/11/2025 14/10/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - It is concluded that as per Report submitted by the DGAP, Respondent i.e. M/s Tata Play Ltd. has profiteered an amount of Rs. 450.18 crores. Respondent is directed to deposit Rs. 450.18 crores in the Central Consumer Welfare Fund as well as in the State Consumer Welfare Funds in the ratio of 50:50 equally, within three months.	
Summary of Order		
9.	Type of order : Deposit in Consumer Welfare Fund/s	

Place :DELHI PB

Date : 11.03.2026

GOODS & SERVICES TAX APPELLATE TRIBUNAL (GSTAT)

PRINCIPAL BENCH, NEW DELHI

ANTI-PROFITEERING DIVISION

NAPA/166/PB/2025

In the matter of:

Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicant

Versus

M/s Tata Play Limited, Unit 301 to 305, 3rd Floor, Windsor Off., C.S.T. Road, Kalina, Santacruz (East), Mumbai – 400098.

Respondent

AND IN THE MATTER OF Proceedings under Section 171 of Central Goods and Service Tax Act, 2017(Act 12 of 2017)

Quorum: -

1. Dr. Justice Sanjaya Kumar Mishra, President, Principal Bench, GSTAT.

2. Sh. A. Venu Prasad, Member (Technical), Principal Bench, GSTATNAA.

Present:-

a) Shri Harkesh Meena, Assistant Commissioner - Departmental Representative assisted by Shri. Praveen Kumar, and Sh. Ajay Tehlan, Additional Assistant Directors appeared on behalf of the DGAP.

b) Sh. Rohan Shah, Learned Senior Advocate, appeared for the Respondent, assisted by Sh. Deepak Thackur, Ms. Aakansha Wadhwani, Mr. Muhammad Anajwalla, Learned Advocates, appeared on the behalf of the Respondent. Shri Pranav Deshpande, Sr. Vice President and Shri Swaminathan Konar, General Manager of the Respondent Company appeared before the Tribunal. Shri Achyut Pyati, Deputy Manager of the holding Company (Tata sons) appeared virtually before the Tribunal.

c) None appeared on behalf of the Applicant / Complainant.

Per, Shri A. Venu Prasad, Member, Technical (State)

Order

1. This proceeding under Section 171 of the Central Goods and Services Tax Act, 2017, hereinafter referred as the CGST Act, for brevity, read with Rule 133 of the Central Goods and Services Tax Rules, 2017, hereinafter referred as CGST Rules, for brevity, to re-examine the correctness of the Report of the Directorate General of Anti-Profiteering, hereinafter referred as DGAP, for brevity, which has been upheld by the erstwhile National Anti-Profiteering Authority, hereinafter referred as NAA, for brevity, but the Hon'ble High Court of Delhi in W.P. (C) 14422/2022 & CM APPL. 44020/2022 has set aside the order of the NAA and directed the matter to be listed before Principal Bench, Goods & Services Tax

Appellate Tribunal, hereinafter referred as GSTAT, for brevity, for reconsideration of the factual aspects of the case. The DGAP has alleged in its Report that Respondent has indulged a profiteering to the extent of Rs. 450.18 Crores.

2. The Respondent is engaged in providing Direct-to-Home (DTH) television broadcasting services. A consumer complaint by Ms. Sweety Agarwal, alleged that the respondent has charged identical subscription prices in the pre-GST and post-GST periods and failed to pass on the benefit of reduced tax incidence (GST benefit) and additional input tax credit to the customers. The matter was examined by the Standing Committee on Anti Profiteering and referred to the Director General of Anti-Profiteering (DGAP) under Rule 129.

3. In this proceeding under Section 171 of the Central Goods and Services Tax Act, 2017, hereinafter referred as CGST Act for brevity, the following question arouses for determination: -

I. Whether the subsummation of Service Tax, VAT, Entertainment Tax and other taxes into GST w.e.f. 01.07.2017 resulted in any reduction of the effective tax incidence on DTH subscription services?

II. Whether the contention of the respondent that no benefit accrued due to non-collection of Entertainment Tax in the pre GST period is legally sustainable?

III. Whether maintaining the same base subscription amount on DTH in pre and post-GST period amounts to retention of GST tax benefit and profiteering?

IV. Whether the benefit arising from such reduction in tax burden was required to be passed on to subscribers in terms of Section 171 of the CGST Act, 2017? Whether the respondent has contravened the provisions of Section 171 of the CGST Act by not passing on the commensurate benefit of tax reduction to consumers?

V. If profiteering is established, what is the quantum of benefit to be passed on and the consequential relief and penal measures warranted under law?

4. The Director General of Anti-Profiteering (hereinafter referred to as the "DGAP") vide its report 05.08.2021 had investigated alleged profiteering in respect of DTH (Direct to Home) service supplied by M/s Tata Play Limited, Unit 301 to 305, 3rd Floor, Windsor Off., C.S.T. Road, Kalina, Santacruz (East) (hereinafter referred to as the "Respondent") for the Period 01.07.2017 to 31.01.2019 on the basis of complaint filed by Ms. Sweety Agarwal,16 Kodihalli Main Road, Indiranagar, Bangalore, Karnataka (hereinafter referred to as the "Applicant"). The Applicant submitted that she had paid same amount of half yearly subscription in June, 2017 (pre- GST) for DTH Service) and also in Post GST Period. No difference in the paid amount. she alleged that in respect of payment of half yearly/annual subscription charges, the Respondent had not passed on the benefit of Input Tax Credit which was not available to him in pre-GST and available to him on implementation of GST w.e.f. 01.07.2017, in terms of Section 171 of the CGST Act, 2017.

5. The DGAP conducted a detailed investigation applying the methodology under Rule 126. The methodology involved comparison of effective tax incidence pre-GST and post-GST, verification of additional ITC, and isolation of GST-related benefits. It was found that:

d) In Pre-GST period, the Appellant discharged service tax, VAT, Entertainment tax and other taxes without seamless credit.
e) In post-GST period, these taxes were subsumed and as a result additional ITC became available.
f) Effective tax incidence reduced post-GST.
g) But Prices were not reduced commensurately.
h) Profiteering was quantified at Rs. 450.18 crore.

6. The methodology adopted finds support from the judgement of the Delhi High Court in Reckitt Benckiser India Pvt. Ltd. V. Union of India (2023), wherein it was held that Rule 126 provides sufficient guidance and that DGAP methodology cannot be interfered with unless shown to be perverse. Similarly, the antiprofiteering framework, observing that mathematical exactitude is not required so long as the methodology is reasonable.

7. The DGAP vide the Investigation Report submitted that in pre-GST period the percentage of input tax credit taken to turnover for the period 01.04.2016 to 30.06.2017 (pre-GST) was 10.86. Whereas, percentage of credit taken to turnover for the period 01.07.2017 to 31.01.2019 was 15.05. Therefore, it appeared that post-GST, the benefit of additional Input Tax Credit to the tune of 4.19% accrued to the Respondent and the same was required to be passed on to the Applicant and the

other eligible recipients. The DGAP calculated profiteering amounts as Rs. 450,18,07,258/-. The calculation of profiteered amount in respect of the Respondent is given in

'Table A' below: -

S. No	Description	Factor	Pre-GST Amount/ %)	Post-GST (Amount/ %)
1	Total Credit taken (01.04.2016 to 30.06.2017) as taken from the ST Returns	(a)	7,72,43,88,961	
2	Total Taxable value for the period (01.04.2016 to 30.06.2017)	(b)	71,13,90,35,728	
3	% age of credit taken to turn over for the period (01.04.2016 to 30.06.2017)	(c)=(a/b*100)	10.86	
4	Total Credit taken (01.07.2017 to 31.01.2019)	(d)		13,70,60,74,243
5	Total Taxable value for the period (01.07.2017 to 31.01.2019)	(e)		91,05,22,88,718*

6	% age of Input Tax Credit taken to turn over for the period (01.07.2017 to 31.01.2019)	(f)=(d/e*100)		15.05
7	Difference in % age of Credit taken to Turnover in pre and post GST regime	(g)=(f-c)		4.19
8	GST @18% on the total taxable value for the period (01.07.2017 to 31.01.2019)	(h)=(e*18%)		16,38,94,11,969
9	Total value inclusive of GST for the period (01.07.2017 to 31.01.2019)	(i)=(e+h)		1,07,44,17,00,687
10	Re-calibrated turn over	(j)=[(e*(100-g)]		87,23,71,97,821
11	GST on Re-calibrated turn over	(k)=(j*18%)		15,70,26,95,608
12	Re-calibrated turn over inclusive of GST	(l)=(j+k)		1,02,93,98,93,429
13	Profiteered amount	(m)=(i-l)		4,50,18,07,258

8. Further, the state-wise bifurcation of the profiteered amount is given in 'Table-B' below: -

S. No.	State/UT Name	State-wise Turnover (From July 17 to Jan 19)	% Turnover State-wise to Overall Turnover	State-wise Profiteered Amount
1	ANDHRA PRADESH	1,24,54,22,017	1.37	6,15,76,155
2	ARUNACHAL PRADESH	29,27,79,030	0.32	1,44,75,581
3	ASSAM	2,66,31,92,951	2.92	13,16,73,586
4	BIHAR	1,05,36,23,972	1.16	5,20,93,276
5	CHANDIGARH	37,80,04,113	0.42	1,86,89,279
6	CHATTISGARH	1,12,41,58,363	1.23	5,55,80,638

7	DADRA & NAGAR HAVELI	1,55,82,255	0.02	7,70,418
8	DAMAN & DIU	97,26,383	0.01	4,80,892
9	DELHI	3,93,90,83,514	4.33	19,47,56,167
10	GOA	55,43,64,229	0.61	2,74,08,876
11	GUJARAT	2,95,15,09,092	3.24	14,59,28,513
12	HARYANA	2,38,32,85,341	2.62	11,78,34,394
13	HIMACHAL PRADESH	46,69,50,017	0.51	2,30,86,943
14	JAMMU & KASHMIR	39,08,55,863	0.43	1,93,24,696
15	JHARKHAND	89,99,06,282	0.99	4,44,93,166
16	KARNATKA	6,17,84,95,484	6.79	30,54,77,174
17	KERALA	79,82,50,277	0.88	3,94,67,090

18	MADHYA PRADESH	1,47,85,93,207	1.62	7,31,04,605
19	MAHARASHTRA	39,57,42,37,026	43.46	1,95,66,29,427
20	MANIPUR	24,06,99,977	0.26	1,19,00,688
21	MEGHALAYA	34,16,29,609	0.38	1,68,90,851
22	MIZORAM	2,07,48,348	0.02	10,25,840
23	NAGALAND	34,33,42,238	0.38	1,69,75,527
24	ORISSA	1,69,84,71,257	1.87	8,39,75,816
25	PUDUCHERRY	3,77,01,392	0.04	18,64,032
26	PUNJAB	1,41,64,66,507	1.56	7,00,32,937
27	RAJASTHAN	2,59,40,03,221	2.85	12,82,52,707
28	SIKKIM	15,80,20,625	0.17	78,12,856

29	TAMIL NADU	4,36,41,53,015	4.79	21,57,72,453
30	TELANGANA	2,66,18,03,291	2.92	13,16,04,878
31	TRIPURA	11,67,10,279	0.13	57,70,390
32	UTTAR PRADESH	7,21,01,99,146	7.92	35,64,86,666
33	UTTARKHAND	53,65,41,738	0.59	2,65,27,697
34	WEST BENGAL	2,87,45,21,303	3.16	14,21,22,082
	Grand Total	91,05,22,88,718	100.00	4,50,18,07,258

9. On receipt of the above report in erstwhile NAA, a Notice dated 10.05.2022 was issued to the Respondent directing him to file written submissions on DGAP's report. The Respondent had filed written submissions dated 12.06.2022 and 11.07.2022. Thereafter, DGAP filed its clarification dated 21.06.2022 on written submissions of the Respondent. Further, the Respondent filed rejoinder dated 27.07.2022 on DGAP's clarifications and consolidated written submissions on 09.08.2022.

10. The erstwhile NAA passed Final Order No. 63/2022 dated 29.08.2022 in the matter and vide para 12 of the said order confirmed the profiteering amount of Rs. 450,18,07,258/- to be deposited by the Respondent in the Central and State Consumer Welfare Funds in the ratio of 50-50 along with interest to be calculated @18% from the date the said amounts were profiteered till the date the said profiteered amounts are deposited in the particular Consumer Welfare Fund as prescribed and in accordance with the provisions of Rule 133(3)(b) of the CGST Rules, 2017.

11. The Respondent had filed Writ Petition (C) No. 14422/2022 before Hon'ble Delhi High Court challenging erstwhile NAA Final Order No. 63/2022 dated 29.08.2022. Hon'ble Delhi High Court vide its order dated 23.09.2025 remanded the matter to Pr. Bench, GSTAT for fresh hearing. Further, Hon'ble Delhi High Court vide above order also held that "as far as the impugned SCN is concerned, since the consequential order has already been passed, W.P. (C) No. 8705 of 2022 challenging the impugned SCN is now infructuous and is accordingly disposed of".

12. Hearings in the matter held on 14.10.2025, 11.11.2025, 09.12.2025, 07.01.2026, 30.01.2026 and 18.02.2026 before the Pr. Bench, GSTAT. Sh. Rohan Shah, Learned Senior Advocate, appeared for the Respondent, assisted by Sh. Deepak Thackur, Ms. Aakansha Wadhwani, Mr. Muhammad Anajwalla, Learned Advocates, appeared on the behalf of the Respondent. Shri Pranav Deshpande, Sr. Vice President and Shri Swaminathan Konar, General Manager of the Respondent Company appeared before the Tribunal. Shri Achyut Pyati, Deputy Manager of the holding Company (Tata sons) appeared virtually before the Tribunal. Shri Harkesh Meena, Assistant Commissioner - Departmental Representative assisted by Shri. Praveen

Kumar, and Sh. Ajay Tehlan, Additional Assistant Directors appeared on behalf of the DGAP.

13. Further vide Tribunal order dated 14.10.2025, It was also directed to issue notice to the original complainant, Ms. Sweety Agarwal. Accordingly, a Notice dated 17.10.2025 had been issued to the original complainant Ms. Sweety Agarwal. However, Ms. Sweety Agarwal vide her email dated 11.11.2025 submitted that as a consumer she raised her concern to department and would like department to take all proceedings further without involving her. The said email/communication was taken on record.

14. The Respondent filed his written submissions dated 13.10.2025 and additional written submissions on 10.11.2025 before the Tribunal, the same has been summarised as below: -

a. The DTH Industry follows uniform pricing, tax and billing processes. It is arbitrary and discriminatory to single out the Company for investigation and penalty, when other licenses operating under the same regulatory and commercial constraints were not prosecuted. If the impugned action is not a sui generis Suo moto inquiry against the entire industry, then the selective initiation against the Respondent Company alone is unsustainable.

b. The Complainant, Ms. Sweety Agarwal, is not a subscriber of the Company and therefore is not a "recipient" within the meaning of Section 2(93) of the CGST Act. Section 171 contemplates a complaint by an aggrieved recipient who has not received the commensurate benefit; a non-recipient lacks the statutory right to invoke the anti-profiteering machinery. The Complaint therefore

suffers from a fundamental defect of locus standi and is not maintainable.

c. The Complaint on which the investigation was initiated consisted of a single email asserting that the Respondent Company had not passed on alleged ITC benefit and furnished only the pre-GST MRP (INR 3,290). Rule 128 requires that a complaint in Form APAF-1 must furnish specific particulars and evidence. The Complainant supplied no cogent material or evidence. In similar fact situations (e.g., Amway India (pg. 144-Compilation Vol II); Yum Restaurants (Pg. 139 – Compilation Vol II), erstwhile NAA quashed proceedings where the complainant failed to produce credible documentary evidence. The present complaint is similarly barren and the proceedings must be dismissed for lack of any foundation.

d. The statutory time limits are prescribed under Rule 128 and 129 of the CGST Rules for the Screening Committee, Standing Committee and DGAP. In the present matter the various stages of the statutory process were delayed beyond the prescribed periods (table of prescribed actions and delays is at pg. 355 of Compilation Vol I). The Authorities invoked the word "shall" in the relevant Rules and Parliament subsequently amended timelines by way of Notification No. 31/2019 to reflect the legislative intention that the timeframes be observed. The failure to adhere to statutory mandated timelines renders the investigation and the Report liable to be set aside as time-barred. Reliance is placed on Bhavnagar University v. Pali tana Sugar Mill (P) Ltd. (2003) 2 SCC 111 [at pg. 179 of Compilation Vol II].

e. DGAP's singular focus on alleged ITC benefit is all the more untenable because the DTH industry's pricing and tariff architecture is subject to sectoral regulation by TRAI. In earlier DTH matters (e.g., Bharti Tele media Pvt. Ltd.) NAA/DGAP have held that where a) Entertainment Tax was neither available as ITC per-GST nor as ITC post-GST, or b) the complainant failed to supply cogent evidence, no profiteering was established. Those findings are squarely applicable to the present facts.

f. DGAP's approach is arbitrary and discriminatory. In comparable fact situations – notably in Fab India (Case No. 13/2018) and KRBL (Case No. 3/2018) – order passed by earlier NAA has considered both the increase in ITC and the change in tax incidence together and found no profiteering where the overall effect did not result in a net benefit to the supplier (these decisions are placed at pg. 149 and 157 of Compilation Vol II).

g. The Company's audited figures (in CA certificate at pg. 424 of Compilation Vol I) show that the tax outgo (tax credits + tax costs) in pre-GST 15-month period was Rs. 847.44 crores (ITC Rs. 772.44 crores + tax costs Rs. 75 crores). The post GST tax outgo for the 19-month period was Rs. 1,370.61 crores. Even applying DGAP's mechanistic scaling to apportion the forgone pre-GST tax cost onto the post-GST tax outgo, the portion of tax cost "freed up" by GST is insufficient to offset the additional tax burden arising from the 3% increase in rate. Even assuming that Rs. 95 crores (calculated pro-rata) represent tax costs now available as ITC, the incremental tax cost borne by the Company (Rs. 245 crores for the 19-month period)

far exceeds that amount, yielding a net negative benefit (i.e., a loss) of approximately Rs. 150 crores. The company absorbed tax burden.

Description	Rs (in Crores)
Decrease in Net Realisation borne by Company due to the Increased Tax Rate from 15% to 18% without change in MRP package value (for 19 months)	(245)
Less: Availability of previously Unavailable Credit (75 Cr extrapolated for 19 months)	95
Net Tax Cost Borne by Company (Loss not Profit) by the Company due to same MRP value of pack despite the Increased Tax Rate.	(150)

h. The company has maintained the same MRP for the relevant service packs pre- and post-GST. Respondent Company has therefore absorbed the incremental tax burden arising from the increase in the tax rate from 15% to 18% (pre and post introduction of GST) by reducing the base price component of the MRP. The table demonstrates that despite an increase in statutory tax rate, the MRP remained unchanged and the Respondent reduced its base price. The Respondent bore the incremental tax cost and therefore suffered a net loss on account of the change in tax incidence rather than deriving any benefit.

Pack price is kept same for complainant	Pre-GST pack value @ 15%	Actual packed value @ 18%	Difference
MRP	3290.00	3290.00	
Tax	429.13	501.86	
Base price	2860.87	2,788.14	-72.73

The decrease in the Net Realisation per pack of supply of services was Rs. 72.73. When the impact of the decrease in the Net Realisation per pack is extrapolated to the entire Turnover of the Company (in the period 01.07.2017 to 31.01.2019), the impact at a Company level is set out in the tabular summary hereunder: -

Amount in INR Crores

Pack price is kept same for all consumers	Pre-GST turnover @ 15% (for the period 01.07.2017 to 31.01.2019)	Actual turnover @ 18% (for the period 01.07.2017 to 31.01.2019)	Decrease in Net Realisation at a Company level
MRP	11,064	11,064	

Tax	1,443	1,688	
Net realization	9621 (Note 2)	9376 (Note 1)	-245

Note 1: Turnover as per financial statement, proportionate for 9 months for FY 2017-18 and 10 months for FY 2018-19 (refer: Page no. 424 of Compilation Vol I - Subtotal A. Total turnover (net of taxes) in CA Certificate - Annexure 9)

Note 2: Refer page no. 424 of Compilation of Vol I (Subtotal C. Total turnover at Pre-GST tax rates (net of taxes) in CA Certificate)

i. The approach adopted by DGAP mirrors the ITC-turnover ratio methodology already held to be inappropriate by Hon'ble Delhi High Court in the case of Reckitt Benckiser India Private Limited & connected matters, which held that "no one size fits all" and the methodology to determine profiteering must be determined based on facts of each case. The matter should be re-adjudicated by applying a fact-sensitive methodology.

It was further submitted that the Respondent had borne Rs 75 Cr actual tax during the pre-GST regime due to non-availability of ITC. These are actual numbers submitted by the Respondent Company vide email dated 24.03.2021 as per the request of the DGAP vide Notice DIN No 202102dapHQOOOOE298 dated 15.02.2021 (refer Pg. 60 of Compilation Vol I). The details of the same are tabulated below: -

in INR Crores

Head wise Actual ITC cost for 15 months period April 2016 to June 2017	Amount (Note 1)
VAT	4.08
CST	5.22
Entry Tax	14.26
SAD	51.10
Total Cost (subsumed in GST)	74.66

Note 1: Refer Page No. 484 of Compilation Vol I (Annexure 9 CA Certificate, subtotal E)

Particulars	Amount
A. Actual ITC cost for 15 months (period April 2016 to June 2017)	74.66
B. ITC cost extrapolated for 19 months = A*19/15	94.57

j. 'Price' is an amalgam of various 'Economic and Commercial factors' including the applicable 'Tax factors. DGAP's failure to consider these demonstrated 'Tax Factors' and 'other Economic and Commercial Factors' is directly contrary to the principle laid down by Delhi high Court in Reckitt Benckiser judgement.

k. The action of the DGAP is arbitrary in nature as the benefit has been given to other assesses.

l. DTH industry has already been investigated and allegation of profiteering was rejected.

m. DTH services, including its pricing, are regulated by TRAI and the allied regulations and Tariff orders issued therein and therefore, Section 171 cannot be applied for determining or regulating the prices.

n. Time limits prescribed in the statute is mandatory in nature.

o. The Complainant has not provided any cogent evidence whatsoever to suggest any profiteering.

p. The Complainant had no locus Standi to file a complaint against the Respondent Company.

q. No interest or penalty is payable in the present case.

r. For query raised by Hon'ble Member, GSTAT related to Entertainment Tax: - Respondent submitted that Entertainment Tax under the pre-GST had not been charged from its consumers/distributors and the burden of Entertainment Tax was absorbed by the Respondent company.

15. The DGAP was directed to file clarifications on Respondent's submissions dated 14.10.2025 & 11.11.2025. The DGAP has filed its clarifications vide letter dated 28.11.2025. The point wise clarifications given by the DGAP on the contentions raised in para above, has been summarised as below: -

a. Objection that investigation against the company is arbitrary, discriminatory and unsustainable merely because other DTH

operators were not simultaneously investigated is legally untenable and contrary to the statutory scheme of Section 171 of the Act. Section 171 read with Rule 128, 129 and 133 empowers the DGAP and Authority to initiate investigation based on specific evidence.

b. The objection raised by the company regarding the alleged lack of locus standi of the complainant is misconceived and contrary to the spirit and objectives of Section 171 of the CGST Act. Both the registered mobile no. linked to the subscription account belong to the complainant and her husband, establishes that complainant was using the connection.

c. Objection raised by the Respondent that the complaint was deficient and devoid of evidence and therefore, the proceedings are invalid is misconceived. Once the Karnataka State Screening and the Standing Committee found prima facie evidence and forwarded the matter to DGAP.

d. The objection raised by the Company that the investigation is vitiated as being time barred due to delay beyond the statutory periods prescribed under Rules 128 and 129 of the CGST Rules is misconceived, legally untenable and contrary. The timelines prescribed under Rules are directory and not mandatory, as neither Section 171 of the CGST Act nor Rules 128 to 133 specify any consequence such as abatement, invalidation or termination or proceedings. Hon'ble High court vide its judgement dated 29.01.2024 in NAA batch matters held that timelines are directory and not mandatory.

e. The contention raised by the company that the DGAP failed to consider TRAI tariff regulations and that its pricing autonomy was constrained and not tenable. The obligation to pass on the benefit of ITC or tax reduction under GST is a statutory mandate governed exclusively by Section 171 of the CGST Act and is wholly independent of TRAI's guidelines to avoid compliance with Section 171.

f. The allegation that the DGAP's approach is arbitrary, discriminatory and in violation of Article 14, merely because other cases such as Fab India (Case No. 13/2018) and KRBL (Case No. 3/2018) were decided differently, is legally misconceived and factually untenable. The principle of negative equality is not recognised in law. Further, it is noteworthy to mention that the above cases pertain to entirely different sectors and neither involved any component of Entertainment Tax.

g. The company's contention that no net benefit accrued under GST, based on its own audited CA-certified figures, is misconceived and misleading. The profiteering amount was computed by the DGAP strictly on the basis of actual ITC/CENVAT availed and utilised for discharge of tax liability,
and more importantly, these details were furnished by the Respondent.

h. Respondent's argument that maintaining the same MRP post GST demonstrates absorption of higher tax incidence, and therefore implies a net loss rather than any benefit, is untenable. The anti-profiteering provisions focus on ensuring benefit arising from

increased availability of ITC under GST is passed on to the recipients through commensurate reduction in prices.

i. The Respondent's reliance on the judgment in Reckitt Benckiser India Pvt. Ltd. Vs. Union of India, 2024 SCC Online Del 588, to challenge DGAP's methodology is misplaced and untenable. The observations of Hon'ble DHC in the case were rendered in context of Real Estate Sector.

j. The Respondent's challenge to DGAP's comparison of ITC to turnover ratios for pre-GST (15 months) and post-GST (19 months) is baseless. In fact, the DGAP's methodology is based on actual figures of ITC availed and turnover is furnished by the Respondent itself through GSTR returns and audited financial records.

k. The Respondent's reliance on the Delhi High Court's observations regarding relevance of "economic and commercial factors" is price formulation is misleading. While the Court acknowledged that suppliers may consider commercial and economic factors in setting prices, it clearly held that Section 171 exclusively concerns the indirect tax component of price and the Authority's mandate is to ensure benefit of rate reduction or additional ITC is passed on to consumers.

l. Respondent's contention that is had absorbed Entertainment Tax during pre-GST period and did not charge it from its consumers is not only unsubstantiated, but also indicates that the company may have profiteered on account of Entertainment Tax as well.

16. Further, the Respondent during hearing held on 07.01.2026 sought permission of the Tribunal to file additional written submissions along with supporting Annexures. Permission was granted by the Tribunal. Accordingly, the Respondent filed his Rejoinder to the submissions of the DGAP vide letter dated 14.01.2026, supported by a compilation dated 14.01.2026 containing various Acts and laws and sample invoices. The Rejoinder of the Respondent is summarised as below: -

a. Misconceived application of the Hon'ble Delhi High Court's remand order dated 23.09.2025.

b. DGAP's approach is ultra-vires section 171 of the CGST Act, 2017.

c. Impermissible resurrection of the Entertainment Tax issue which has already considered and concluded.

d. Incorrect Interpretation of judgment of the Hon'ble Delhi High Court in Reckitt Benckiser.

e. Incorrect assertion that company "Failed to produce evidence".

f. NAA order in the case of Bharti Telemedia is squarely applicable to the present case.

g. Arbitrary and discriminatory departure from settled erstwhile NAA precedents in comparable cases.

h. Erroneous assertion that TRAI regulations are irrelevant.

i. Incorrect assertion that the Complainant was a recipient.

j. Invalidation of proceedings due to defective complaint.

k. Failure to address the issue of breach of statutory timelines.

l. DGAP has not disputed the calculation evidencing no profiteering by the Respondent Company.

m. DGAP has not disputed the calculation errors pointed out by the Respondent Company.

17. During the hearing held on 30.01.2026, to facilitate clarification of the matter, both the parties sought permission to submit very short Synopsis of arguments on 18.02.2026. Accordingly, the DGAP has filed its short synopsis on 17.02.2026. The same has been summarised as below: -

a. The objection that comparison of a 15-month pre-GST period with a 19-month post-GST period renders the analysis invalid is mathematically unsound.

b. The alternate computations advanced by the Respondent Company on the basis of Chartered Accountant certificates are not supported by contemporaneous purchase invoices, statutory ITC ledgers or return-based reconciliations.

c. The objections relating to locus standi of the complainant and validity of the complaint are also misconceived.

d. With regard to the Entertainment Tax, it is submitted that the said levy was a statutory indirect tax, the legal and economic incidence of which is borne by the recipient of the service.

18. The Respondent has also filed its short synopsis dated 18.02.2026, the same has been summarised as below: -

Increase in the rate from 15% to 18% has been completely ignored by the DGAP:

a. The calculation method adopted by the DGAP in arriving at the profiteered amount is completely flawed and unsustainable. The

Company has, in fact, suffered loss on account of net tax cost and there has been no profiteering in the hands of the Company.

b. Erroneous Calculations by the DGAP of the amount of additional ITC benefit available to the Company

c. DGAP's calculation of additional ITC benefit available to the Company, as per the Table in the Investigation Report dated 06.08.2021 – is totally erroneous, arbitrary and irrational.

The Hon'ble Delhi High Court, by its judgment in Reckitt Benckiser (supra), at paragraph 129 [Paragraph 129 of the Hon'ble Delhi High Court's Order dated 29.01.2024 can be found at Pg. 107 of Compilation Vol. 2 submitted by the Company on 14.10.2025.], sets aside this basis of calculation adopted for the Real Estate Industry, once it was shown that the basis adopted in the Table, had certain flaws resulting in certain arbitrary and irrational consequences for the Real Estate Industry. Even in the facts of the present case, it can be established that the application of this basis results in an arbitrary and irrational consequence. The calculation and explanation in this regard are set out hereunder:

DGAP'S CALCULATION					IF TATA PLAY REDUCED TURNOVER BY 450.18 CR			
Particulars	Pre-GST	Post-GST	Diff		Particulars	Pre-GST	Post-GST	Diff

Tax credit	772.44	1370.61	598.17		Tax credit	772.44	1370.61	598.17
Turnover	7113.90	9105.23	1991.33		Turnover	7113.90	8655.05*	1541.15
Ratio	10.86	15.05	4.19		Ratio	10.86	15.84	4.98
Gross turnover			10,744.17		Gross turnover			10,212.96
Profiteering			450.18		Profiteering			508.38

* 9105.23 – 450.18 (alleged profiteered amount)

If the method of DGAP is applied, it would result in INR 450.08 crores profiteering and an additional 508.38 crores if the Company actually decides to pass the alleged profiteering amount to the customers.

It was submitted that the correct way to look at the issue of increased ITC would have been to benchmark the percentage of unavailable ITC and to apply it to the ITC admittedly availed, as per the GST records. The calculation in this regard was set out at paragraph 23 of the Respondent's Additional Written Submission dated 10.11.2025 and is reproduced hereunder for convenience:

S. No.	Particulars	Amount	Reference
A.	Total available Credit (01.04.2016 to 30.06.2017) as taken from the ST Returns	7,72,43,88,961	Refer Page 85 of Compilation Vol I (Sr. No. 1 of Table A of Part of DGAP Report)
B.	Total Unavailable Credit (01.04.2016 to 30.06.2017)	74,66,96,730	Refer Page No. 424 of Compilation Vol I (Annexure 9 CA Certificate, subtotal E) (submitted by Company vide email dated 24.03.2021 as per request from DGAP vide Notice

			DIN No 202102dapHQOOOOE298 dated 15.02.2021 (refer page 60 of Compilation Vol I))

C.	Ratio of Unavailable Credit to the available credit in the pre-GST period (01.04.2016 to 30.06.2017) (B/A*100)	9.67%	
D.	Total Credit taken in the post GST period (01.07.2017 to 31.01.2019)	13,70,60,74,243	Refer Page 85 of Compilation Vol I (Sr. No. 4 of Table A of Part of DGAP Report)
E.	Increased benefit of ITC credit available in the post GST period vis-à-vis the preGST period, by	1,32,49,30,797	

	applying 9.67% [(C)-above] to the Total credit taken in the post-GST period (01.07.2017 to 31.01.2019) [(D)above]		

d. Alternatively, in the DGAP's calculation, the cost of increase in rate of tax is considered with the actual certified ITC benefit, then too, there is no profiteering.

Description	Rs. (in crores)
Total taxable turnover for the period 01.07.2017 to 31.01.2019	9105.22
Increase in tax rate post GST regime [3%]	(273.15)
Actual Credit that became available in GST regime	95
Net loss incurred by the Company	(178.15)

e. The issue of Entertainment Tax is no longer in dispute in the present proceeding. Reliance in this regard is placed on the Order of Ld. NAPA in the case of Shri Navneet Gupta vs. Bharti Telemedia Pvt Ltd. [Case No. 37/2019].

19. The DGAP conducted a detailed investigation applying the methodology under Rule 126. The methodology involved comparison of effective tax incidence pre-GST and post-GST, verification of additional ITC, and isolation of GST-related benefits. It was found that:

(a) In Pre-GST Period, the Appellant discharged service tax, VAT, and other taxes without seamless credit.

(b) In Post-GST Period, these taxes were subsumed, and additional ITC became available.

(c) Effective tax incidence reduced post-GST.

(d) Prices were not reduced commensurately.

(e) Profiteering was quantified at ₹450.18 crore.

20. The methodology adopted finds support from the judgment of the Delhi High Court in Reckitt Benckiser India Pvt. Ltd. v. Union of India (2023), wherein it was held that Rule 126 provides sufficient guidance and that DGAP methodology cannot be interfered with unless shown to be perverse. Similarly, the Bombay High Court in Abbott Healthcare Pvt. Ltd. v. Union of India upheld the anti-profiteering framework, observing that mathematical exactitude is not required so long as the methodology is reasonable.

The respondent mainly contended that: -

(i) Section 171 lacks guidelines;

(ii) Service tax was increased from 15 percent to 18 percent in post GST period.

(iii) Entertainment tax was not collected from subscribers and but deposited with state governments.

(iv) Identical pricing for DTH services in pre and post GST period does not imply profiteering:

(v) increased costs completely neutralised any tax benefit accrued in post GST period.

(vi) In view of above, requested to file the investigation report.

21. Having considered the materials on records, arguments advanced by the parties. We are of the opinion that as far as the question no. I framed by us in the aforesaid para 3 is concerned, We take note of the fact that it is not disputed by any of the parties that before 01.07.2017 an assessee providing the DTH services was liable to pay Service Tax, Central Excise Duty on set-top boxes and equipment, Value Added Tax (VAT) on set-top boxes, accessories and recharge vouchers, Entertainment Tax levied by State Governments on DTH services, Countervailing Duty (CVD) on imported equipment, Special Additional Duty (SAD) on imports and Entry Tax / Octroi in certain States.

22. There is no dispute regarding the fact that all these taxes were levied independently. ITC was not available seamlessly especially between state and central taxes. From 01.07.2017, all major indirect taxes applicable to the DTH industry were subsumed into one single tax regime under Goods and Services Tax (GST), which includes Service Tax, Central Excise Duty, Value Added Tax (VAT), State Entertainment Tax on DTH, Countervailing Duty (CVD), Special Additional Duty

(SAD), Entry Tax / Octroi. As a result of the advent of the GST regime, DTH services and related equipment are taxed uniformly under GST regime at 18% with full availability of Input Tax Credit.

23. It was submitted by the Respondent as a petitioner in W.P. (C) 14422/2022 & CM APPL. 44020/2022 before Hon'ble High Court of Delhi that there has been admitted increase in Service Tax from 15% to 18% and therefore the matter should have been considered in proper perspective by the DGAP and it should have submitted a report of 'nil' profiteering. However, the aforesaid submission made before Hon'ble High Court of Delhi did not reveal that with the advent of GST regime, there has been subsuming number of indirect taxes, levied both by the Centre and State, and in fact there has been a reduction in the overall tax incidents on the Respondent as shall be demonstrated by us in the succeeding paragraphs.

24. Although the main tax rate increased from 15% Service Tax to 18% GST, the removal of Entertainment Tax, VAT, and other embedded levies significantly reduced the cumulative tax burden. With full input tax credit availability, the effective tax incidence on DTH operators became revenue positive. The GST regime simplified compliance and improved cost efficiency across the sector. To understand better, numerical Comparison of Tax Burden on DTH Services – Pre & Post GST is made here. The following illustration shows a typical effective tax burden on DTH subscription value of ₹100 before and after the introduction of GST.

Tax Component	Pre-GST (Approx. %)	Post-GST (%)
Service Tax / GST	15%	18%

Entertainment Tax (As per the state)	10% – 30%	Nil
VAT on related charges (varies from state to state)	5% – 14%	Nil
Embedded central excise & import duties	3% – 5%	Nil (ITC available)
Total Effective Burden	25% – 35%	18%

25. This demonstrates that although GST increased the nominal tax rate, the elimination of multiple cascading levies significantly reduced the overall tax burden on DTH services. To understand better, a Real Case Illustration – Tax Impact on DTH Services (Pre vs Post GST period) based on a monthly DTH subscription value of ₹300. Only calculated taking Service tax and Excise duty. Not included other applicable taxes and levies on DTH services.

Pre-GST Scenario (Illustrative):

- Base Subscription Value: ₹300
- Service Tax @15%: ₹45
- Entertainment Tax (Assumed 15% by State): ₹45
- Effective Total Payable: ₹390
- Effective Tax Burden: ₹90 (30%)

Post-GST Scenario (Illustrative):

- Base Subscription Value: ₹300
- GST @18%: ₹54
- Total Payable: ₹354
- Effective Tax Burden: ₹54 (18%)

Net Impact due to GST introduction: From the above illustration, it is clear, under the pre-GST regime, the subscriber paid approximately ₹390 on a ₹300 subscription, reflecting a 30% cumulative tax burden. Under GST, the total payable reduces to ₹354, reflecting an 18% tax burden. This results in a net reduction of ₹36 per month in this illustration. Additionally, GST allows seamless input tax credit to operators, eliminating cascading effects that existed under the earlier regime. For better clarity, Side-by-Side Comparison – DTH Tax Burden Pre & Post GST is as below:

Illustrative comparison based on a monthly DTH subscription value of ₹300.

Scenario	Tax Components	Total Tax Amount	Effective Burden
Pre-GST (15% ET State)	Service Tax 15% + Entertainment Tax 15%	₹90	30%
Pre-GST (20% ET State)	Service Tax 15% + Entertainment Tax 20%	₹105	35%

Post-GST (All India)	GST @18%	₹54	18%

The side-by-side view highlights that GST significantly reduced the cumulative tax burden, particularly in States with high Entertainment Tax rates, while also removing cascading effects through full input tax credit.

RESPONDENT CONTENTIONS: During the course of arguments, the respondent mentioned about increase in service tax from 15% to 18% of GST but not considered other taxes and bills details given are as below: -

Pack price is kept same for complainant	Pre-GST pack value @ 15%	Actual packed value @ 18 %	Difference
MRP	3290.00	3290.00	
Tax	429.13	501.86	
Net Realisation	2860.87	2,788.14	-72.73

Settled Principle of Law: It is an admitted position that DGAP while calculating the alleged profiteering has not factored losses incurred by the Company pursuant to increase in rate of output tax from pre-GST regime [15%] to post-GST regime [18%]

while keeping the MRP unchanged. This is evident from the table at Pg. 85 of Compilation Vo1 I and also admitted by DGAP (in response to the specific query by the Hon'ble Members of the Hon'ble Tribunal) during the course of hearing on 30.01.2026.

Erroneous calculations by the DGAP of the amount of additional ITC benefit available to the Company

The Company had, in its submissions to DGAP, vide emails dated 06.11.2020, 24.03.2021, 17.04.2021, provided the actual figures of VAT, CST, Entry tax and SAD, for the period of computation (1st April 2016 to 30th June 2017), along with the documents and evidences in support thereof. These were taken on record and accepted by DGAP and thereafter by NAPA and their correctness was never called into question. The Company, in its submissions, has always submitted that the actual credit which was earlier not available [VAT + CST + Entry Tax + SAD] for the period of computation [i.e. 15 moths] was INR 75 crores, which, if extrapolated to 19 moths [i.e. period of dispute, being July 2017 to January 2019] mathematically, comes to INR 95 crores. This, then, was the benefit of fresh ITC received by the Company under the GST regime. The breakup of the unavailable credit is as follow:

Head wise Actual ITC cost for 15 months period April 2016 to June 2017	Amount (Note 1)
VAT	4.08
CST	5.22
Entry Tax	14.26
SAD	51.10

Total Cost (subsumed in GST)	74.66

Note 1: Refer Page No. 424 of Compilation Vo1 I (Annexure 9 CA Certificate, subtotal E)

Particulars	Amount
A. Actual ITC cost for 15 moths (period April 2016 to June 2017)	74.66
B. ITC cost extrapolated for 19 months =A19/15	94.57

The above data given by the respondent was examined in detail along with DGAP response. As per the new scheme of calculations under GST, the above contents of the table of calculations (on average basis) given by the respondent are not valid as per below illustration: -

Scenario	Tax % (on Rs. 300/- subscription per month)	Tax Amount	Total Payable	Difference: excess tax burden in pre-GST period.
1.Pre-GST (15% Entertainment Tax)	30% (15 percent service tax and 15 entertainment taxes & levies)	₹90	390	96

2.Pre-GST (20% Entertainment Tax)	35% (15 percent Service Tax + 20 Entertainment taxes & levies)	₹105	₹405	51
Post-GST	18% GST	₹54	₹354	

Net result and Impact of taxes in Post GST Period: From the above table, it is clear with the introduction of GST, the effective tax burden on DTH services reduced by eliminating Entertainment Tax and other cascading levies, bringing uniform taxation with seamless Input tax credit — in overall GST benefitted the industry and consumers. Hence, the contention of the respondent that increase of service tax from 15 percent to 18 percent of GST is not valid. Respondent has not considered the benefit available with the introduction of GST especially subsummation entertainment tax, VAT and other levies as mentioned in the previous paras. The determination under Section 171 is not confined to a simplistic comparison of main tax rates, but requires examination of the total indirect tax burden before and after the introduction of GST. When viewed in totality, the subsumption of Entertainment Tax and Service Tax post-GST unmistakably demonstrate a reduction in the effective output tax burden.

Respondent referred the judgment passed by the erstwhile NAA in M/s Bharti Telemedia Pvt. Ltd., however, the facts of this case are not exactly similar to the instant case and apart from it the orders of erstwhile NAA are not binding upon the GSTAT, especially after the matter remanded by the Hon'ble High Court of Delhi in

W.P. (C) 14422/2022 & CM APPL. 44020/2022 in Tata Play Ltd., vide order dated 23.09.2025.

26. Coming to the question no. II framed by us in the aforesaid Para 3, we take note of the fact that the benefit of subsummation of various taxes and levies, is based on statutory merger of taxes and not on whether a particular levy was collected by a dealer or not. Once a tax stand subsumed by law, its prior non-collection does not justify denial of GST impact benefits to subsequently to consumers.

- Various Courts have consistently held that tax incidence must follow statutory levy and not past administrative practice or otherwise.
- Once a levy is subsumed under GST, States and dealers, lose power to impose or revive such taxes irrespective of historical collection by them.
- Fiscal benefits under GST cannot be denied on hypothetical or nonenforced or non-collection of taxes before introduction of GST. Subsummation under GST is constitutional and automatic — not conditional upon earlier enforcement.
- Post-GST, States cannot impose Entertainment Tax on services such as DTH once subsumed in GST framework.
- Any demand must strictly relate to pre-GST period and only if legally liable.
- Non-collection of ET earlier does not prevent the taxing power post-GST.
- Taxation follows legislative competence, not historical enforcement.

From the above it is clear that the argument of respondent that Tata Sky has not collected entertainment tax from the customers is not valid as per law. However surprisingly, as per the respondent, they have deposited the entertainment tax due to all the respective states. Hence, post GST, the respondent is bound to pass on the benefit of subsummation of entertainment taxes to customers whether it has been collected or not.

27. Coming to the question no. III as framed by us in the aforesaid Para 3, we take note of the fact that it apparent from the records: -

- The assesses charged ₹3290 for six-month period as DTH subscription prior to GST inclusive of all levies and taxes.
- Multiple indirect taxes including Service Tax and statutorily leviable Entertainment Tax stood subsumed under GST.
- Post-GST, despite reduction in effective tax burden to 18%, the assessed continued charging ₹3290 inclusive of all taxes for six months plus GST.
- The assesses contended that no benefit arose as Entertainment Tax was not actually collected earlier.

Settled Principle of Law:

Entertainment tax is a statutory levy on the act of providing entertainment. The obligation to pay tax arises from the statute itself and is not contingent upon recovery from customers. Failure to collect tax is a commercial lapse and cannot defeat statutory liability. Entertainment Tax to the Government even where such tax was not reflected as a separate line item on the invoices, it would necessarily have been embedded in the subscription price recovered from consumers.

State of Kerala & Another v. Asianet Satellite Communications Ltd. & Others (2025) INSC 757 dated 22 May 2025, wherein, the Hon'ble Supreme Court held that *"DTH/cable broadcasting services can be subjected to both service tax (Union) and entertainment/luxury tax (State) under the "double aspect theory", and the Kerala High Court decision striking down the tax was set aside"*.

Hon'ble Supreme Court upheld the constitutional validity of State entertainment tax on cable and broadcasting services. Consequently, operators are liable to discharge the full tax liability for the relevant period, even if the tax was not collected from subscribers.

Accordingly, non-collection of entertainment tax does not extinguish the liability. The assesses remains liable to pay the full amount of tax, along with applicable interest and penalties, subject only to statutory limitations or specific court orders.

- Tata Sky Ltd. v. State of Kerala, 2019 (30) GSTL 153 (Ker.) – Entertainment Tax on DTH cannot continue post-GST.
- Dish TV India Ltd. v. Union of India, 2018 (19) GSTL 185 (Del.) – State levies merged into GST framework.

28. Coming to the question no. IV as framed by us in the aforesaid Para 3, we take note of the statutory provisions and report the same as follows: -

"Section 171. Anti profiteering measure -

(1) Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit shall be passed on to the recipient by way of commensurate reduction in prices.

(2) The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

> 2[Provided that the Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him."

The Hon'ble High Court of Delhi in the case of Reckitt Benckiser India Pvt. Ltd., Vs. Union of India, (2024) 14 Centex 374 (Delhi), W.P (C) No. 7743 / 2019 dated 29.01.2024 has held that as far as methodology adopted by the DGAP in calculating of profiteering in respect of the Real Estate Industry is incorrect. However, the Delhi High Court further held that there is 'no one size fits all' formulae or method to be applied for every industry. Every Industry has to be taken in its own peculiarity and accordingly profiteering has to be calculated.

Constitutional challenge:

The Hon'ble High Court of Delhi, in the case of Reckitt Benckiser India (P.) Ltd. v. UOI (Supra) has considered the constitutional validity of Section 171 of the CGST Act and also considered the scope of this provision.

Further, the contention raised by the Respondent no. 1 is that the constitutional validity of Section 171 of the CGST Act and the Rules issued thereunder is currently

under challenge before the Hon'ble Supreme Court of India, hence, this matter is not maintainable.

The pendency of the case challenging the constitutional validity of Section 171 before the Supreme Court by itself will not in the absence of the order of Stay would anyway affect the jurisdiction of the Tribunal to decide the case of alleged profiteering. Moreover, the Hon'ble High Court of Delhi has upheld the validity of the relevant provisions. The Provisions of Section 171 read with connected Rules especially Rule 128 and 133 requires the concerned supplier to pass on benefit of rate reduction to its recipient.

Section 171 of the CGST Act operates in an independent statutory domain and mandates transmission of tax benefits irrespective of any regulation. Hence, the Respondent's contention that section 171 is unconstitutional is rejected.

The Supreme Court in the case of Union of India & Anr. Vs. M/s Mohit Mineral Pvt. Ltd., (through Director) (2022) 10 SCC 700- 2022 SCC online SC 657 dated 19.05.2022 reaffirmed that fiscal regulatory measures enacted in public interest enjoy a presumption of constitutionality.

29. Coming to the question no. V as framed by us in the aforesaid Para 3, it is clear that the respondent has not passed the benefit accrued due to introduction of GST. Hence, based on DGAP's quantified findings and judicial principles, the Tribunal concludes that

(a) a net tax benefit accrued to the respondent post-GST due to subsummation of various taxes and availability of increased Input Tax Credit.

(b) such benefit of GST introduction was not passed on to the consumers.

(c) Profiteering of ₹450.18 crore stands established.

30. We may note here that the period under consideration for calculation of the alleged profiteering is between 01.07.2017 to 31.01.2019. By virtue of the amendment through Notification no. 31/2019 Central Tax, which came into force on 28.06.2019, the Authority in charge of examining cases of alleged profiteering were vested with the Jurisdiction to impose interest @ 18% on the profiteered amount in the cases where consumers were faceless – unidentifiable. We may note here that in cases where consumers were identifiable by virtue of the Rule 133, Sub Rule 3(b), the statute provided the jurisdiction to impose 18% interest. This issue was decided by one of us, namely, S. K. Mishra, President, GSTAT in the case of DGAP Vs Mallikarjuna Cinema Hall, 70 MM, case no. NAPA/3/PB/2025 dated 12.09.2025 and DGAP Vs. M/s Proctor & Gamble Group, case no. NAPA/13/PB/2025 dated 10.09.2025 and this Tribunal has already held that only when the Respondent has committed profiteering in violation in Section 171 of the CGST Act after 28.06.2019, then only the Authority in Seisin of the matter can impose interest. We endorse the said view.

31. Thus, on the aforesaid discussion we come to the conclusion that report submitted by the DGAP that the Respondent M/s Tata Play Ltd. profiteered an amount of Rs. 450.18 crores. Hence, we direct that the Respondent to deposit Rs. 450.18 crores in the Central Consumer Welfare Fund as well as in the State Consumer Welfare Funds in the ratio of 50:50 equally, within three months. The 50% share shall be deposited in State Consumer Welfare funds. For some states and Union Territories, the State Consumer Welfare Funds are not yet created. Therefore, the share of profiteered amount which was supposed to be deposited in those State Consumer

Welfare Funds is to be deposited in the Central Consumer Welfare Fund for time being.

32. A report in compliance of this order shall be submitted to this Tribunal by the concerned Commissioner within a period of 4 months from the date of receipt of this order.

33. A copy of this order be supplied to the Respondent and to the concerned Commissioners CGST / SGST for necessary action.

34. Judgment pronounced in open Court.

Digitally signed by SANJAY KUMAR MISHRA
Date:11-03-2026 18:28:25 PM

Dr. S K Mishra,
President, GSTAT.

Digitally signed by ARABANDI VENU PRASAD
Date:11-03-2026 18:23:23 PM

Sh. A. Venu Prasad,
Technical Member, GSTAT.

Date- 11.03.2026