GSTAT

Principal Bench at Delhi

Court No. Court IV

NAPA/114/PB/2025

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

Versus

BENGAL SHAPOORJI HOUSING DEVELOPMENT PVT. LTD. **.....Respondent**

Quorum

Hon'ble Sh. A. Venu Prasad, Member (Technical)

Counsel for Appellant **Counsel for Respondent**

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. : ZA070011126000024H **Date of order :** 04/11/2026

1.	GSTIN/Temporary ID/UIN - 19AACCM1595P1ZS	
2.	Appeal Case Reference no. - NAPA/114/PB/2025	Date - 28/03/2025
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondant - 1. Bengal Shapoorji Housing Development Pvt. Ltd. , santanu.laskar@shapoorji.com	
5.	Order appealed against -	

	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 04/11/2026 07/10/2026 05/10/2026 24/09/2026 27/04/2026 16/04/2026 08/04/2026 10/03/2026 08/01/2026 29/10/2025	
7.	Status of Order under Appeal - Modified – Order under Appeal is modified	
8.	Order in brief - Applicant's request to deposit amounts attributable to certain homebuyers in the Consumer Welfare Funds is allowed to the limited extent where direct refunds cannot be effected or possible, subject to fulfilment of the conditions prescribed under Rule 133(3)(c) of the CGST Rules, 2017. The Applicant is directed to refund directly to the original complainant, Shri V.K. Jain, the amount attributable to him as determined in the DGAP Report, along with applicable interest under Rule 133(3)(b) of the CGST Rules, 2017.	
	Summary of Order	
9.	Type of order : Return to Recipient of Amount not passed on, along with interest	

ORDER

BACKGROUND

1. The present proceedings arise out of an application filed by M/s Bengal Shapoorji Housing Development Private Limited (hereinafter referred to as the "Applicant") under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, seeking correction/modification of the order dated 27.04.2026 passed by this Tribunal in Appeal No. NAPA/114/PB/2025.
2. The original proceedings arose from a complaint alleging that the Applicant had failed to pass on the benefit of Input Tax Credit (hereinafter referred to as "ITC") accruing upon the introduction of Goods and Services Tax (hereinafter referred to as "GST") by way of a commensurate reduction in

the prices charged to the homebuyers, in contravention of Section 171 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act").

3. Upon investigation, the Director General of Anti-Profiteering (hereinafter referred to as the "DGAP") submitted its report dated 25.03.2025, determining that the Applicant had derived an additional benefit of ITC which had not been passed on to the homebuyers. The DGAP quantified the profiteered amount at Rs. 1,33,32,208/-, along with the corresponding GST component of Rs. 15,99,865/-, aggregating to Rs. 1,49,32,073/-.
4. This Tribunal, after considering the DGAP Report, the submissions advanced by the parties and the applicable statutory provisions, passed the order dated 27.04.2026. By the said order, the Applicant was directed to refund the profiteered amount of Rs. 1,33,32,208/-, together with the corresponding GST component of Rs. 15,99,865/-, aggregating to Rs. 1,49,32,073/-, to the eligible homebuyers identified in Annexure-11 of the DGAP Report, along with interest at the rate of 18% per annum in terms of Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules").
5. The Tribunal also considered the Applicant's contention regarding the inclusion of the GST component in the profiteered amount. Relying upon the judgment of the Hon'ble High Court of Delhi in ***Reckitt Benckiser India Private Limited v. Union of India, W.P. (C) 7743/2019***, the Tribunal held that the GST component formed part of the amount required to be returned to the homebuyers and accordingly directed refund of the aggregate amount.
6. **The Applicant has expressed its willingness to refund the profiteered amount to the homebuyers but has been unable to effect such refunds in the absence of the requisite bank account details.** Thereby, aggrieved by the aforesaid order, the Applicant filed the present application seeking

its correction/modification. The application principally raises the following grounds:

That the Applicant is unable to obtain the bank details of certain homebuyers and, therefore, seeks permission to deposit the corresponding amounts in the Consumer Welfare Fund instead of refunding them directly to the homebuyers.

That the GST component of Rs. 15,99,865/- should be deleted from the amount directed to be refunded, as the said amount has already been deposited with the GST Department.

7. During the course of the oral hearings, the Applicant additionally relied upon the subsequent order passed by this Tribunal in ***DGAP v. Bengal Emami Housing Ltd., Appeal No. NAPA/141/PB/2025***, dated 02.09.2026, and sought similar relief in the present proceedings.

8. The Applicant, in its written submissions dated 07.10.2026, raised the following further contentions:

8.0. The Applicant submitted that the prices of the units had been fixed under an agreement with WBHIDCO and that it had no authority to alter the prices so fixed. It was further contended that all 1,525 flats pertained to the Upper Middle Income Group (UMIG) and that the cost of construction had continuously increased. Placing reliance on the decision of this Tribunal in ***Bengal Emami Housing Ltd. (supra)***, the Applicant submitted that no profiteering had been attributed in respect of LIG or MIG units in similar circumstances. It also relied upon paragraphs 118 and 163 of the judgment of the Hon'ble High Court of Delhi in ***Reckitt Benckiser India Private Limited (supra)***, contending that the DGAP had allegedly failed to examine these aspects despite the objections raised by the Applicant.

8.1. With regard to the refund of the profiteered amount of Rs. 1,33,32,208/-, the Applicant submitted that it had furnished, by email dated

07.10.2026, a statement containing the particulars of the flat owners along with the General Terms and Conditions. Referring to Clause 6.8 of the said terms and conditions, the Applicant contended that the transactions had been undertaken through demand drafts/payments and that, consequently, the bank account particulars of the flat owners were not available with it. It further submitted that, without prejudice to its other submissions, it may be permitted to deposit the corresponding unrefunded amounts in the Consumer Welfare Fund.In support of the aforesaid request, the Applicant relied upon ***Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1***, in support of its contention that where compliance with a legal requirement is rendered impossible by a disability, the resulting non-compliance may be excused.

8.2. Regarding the GST component, the Applicant reiterated that the prices had been fixed both before and after the introduction of GST and, therefore, there was no scope for profiteering in the present case. It further submitted that it had paid GST on the total invoice value and that requiring it to refund the GST component of the alleged profiteered amount would result in double taxation.

8.3. The Applicant contended that the expression "factual mistake apparent from the record" under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, ought to be construed broadly. Reliance was placed on ***Honda Siel Power Products Ltd. v. Commissioner of Income Tax, (2007) 12 SCC 596***, in support of the submission that the power of rectification is intended to ensure that neither party suffers prejudice on account of a decision affected by a mistake apparent from the record. The Applicant further contended that consideration of its objections in the light of the

subsequent decision in DGAP v. Bengal Emami Housing Ltd. (supra) would cause no prejudice to the DGAP.

9. The submissions advanced by the Applicant have been considered in the light of the application, the order dated 27.04.2026, the written submissions dated 07.10.2026, the relevant statutory provisions and the proceedings recorded during the hearings.

10. The application under Rule 31 was heard on 05.10.2026 and 07.10.2026. On both dates, Ms. Nidhi Dabas, learned AAD–Authorised Representative, appeared on behalf of the DGAP, Shri PK Das, Learned Advocate and Shri Mukul Agarwal, Learned Advocate, appeared on behalf of the Respondent.

Issues for Determination

11. Upon consideration of the pleadings, submissions advanced by the parties, and the material available on record, the following issues arise for determination:

(i) Whether the Application filed under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, is maintainable?

(ii) Whether the Applicant may be permitted to deposit the amounts attributable to the homebuyers in the Consumer Welfare Fund, in view of the stated inability to effect direct refunds to them?

(iii) Whether the GST component of Rs. 15,99,865/- included in the profiteered amount can be removed from the order dated 27.04.2026 by way of rectification?

(iv) Whether the subsequent order dated 02.09.2026 passed in ***Bengal Emami Housing Ltd. (supra)***, warrants rectification or modification of the order dated 27.04.2026 in the present case?

Determination of Issue (i)

Whether the application filed under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, is maintainable?

12. Before examining the grounds raised by the Applicant, it is necessary to determine the scope of the jurisdiction invoked by it. The present application has been filed under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, which provides as follows:

> *"The Principal Bench on its own motion or on the application of any party may correct any clerical, arithmetical or factual mistake apparent from the record within a period of 3 months from the passing of the order."*

13. A plain reading of the aforesaid provision makes it evident that the jurisdiction conferred upon the Tribunal under Rule 31 is limited to the correction of a clerical, arithmetical or factual mistake apparent from the record. The provision does not confer a general power of review or permit reconsideration of an order on merits merely because a party is aggrieved by the findings recorded therein.

14. In this context, reference may also be made to Section 152 of the Code of Civil Procedure, 1908, which provides as follows:

> ***"152. Amendment of judgments, decrees or orders.—***
> *Clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Court either of its own motion or on the application of any of the parties."*

15. The aforesaid provision illustrates the limited nature of corrective jurisdiction and the distinction between rectification of an apparent mistake

and reconsideration of an order on merits. While Section 152 of the Code of Civil Procedure, 1908, provides for correction of clerical or arithmetical mistakes and errors arising from accidental slips or omissions, the jurisdiction of this Tribunal in the present proceedings is governed by Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025. Accordingly, the present application must satisfy the specific requirements of Rule 31, and the said provision cannot be construed as conferring a general power to review or reconsider an order on merits.

16. The scope of the expression "mistake apparent from the record" has been explained by the Hon'ble Supreme Court in ***T. S. Balaram, Income Tax Officer v. Volkart Brothers, (1971) 2 SCC 526.*** While examining the scope of rectification under Section 154 of the Income-tax Act, 1961, the Hon'ble Supreme Court held that a mistake apparent from the record must be obvious and patent and cannot be one that requires a long-drawn process of reasoning on a point on which two views may reasonably be possible. The relevant observations of the Hon'ble Supreme Court are reproduced below:

> *"…….A mistake apparent on the record must be an obvious and patent mistake and not something which can be established by a long drawn process of reasoning on points on which there may conceivably be two opinions. As seen earlier, the High Court of Bombay opined that the original assessments were in accordance with law though in our opinion the High Court was not justified in going into that question. In Satyanarayan Laxminarayan Hegde and ors. v. Millikarjun Bhavanappa Tirumale(1) this Court while spelling out the scope of the power of a High Court under Art. 226 of the Constitution ruled that an error which has to be established by a long drawn process of reasoning on points where*

there may conceivably be two opinions cannot be said to be an error apparent on the face of the record. A decision on a debatable point of law is not a mistake apparent from the record—see Sidhamappa v. Commissioner of Income-tax, Bombay(2). The power of the officers mentioned in S. 154 of the Income-tax Act, 1961 to correct "any mistake apparent from the record" is (1) [1960] 1 S.C.R. 890."

17. Applying the aforesaid principles to the present case, the Applicant has not demonstrated any clerical, arithmetical or factual mistake apparent from the record in the order dated 27.04.2026. The issues raised in the application, including the challenge to the GST component of the profiteered amount, were considered and adjudicated by this Tribunal in the original proceedings. The Applicant has not identified any obvious and patent error in the findings recorded or in the directions issued by the Tribunal warranting rectification under Rule 31.

18. Notwithstanding the aforesaid finding on maintainability, the submissions advanced by the Applicant, both in the application and during the oral hearings, warrant consideration to the limited extent that they seek clarification regarding the manner of compliance with the directions contained in the order dated 27.04.2026. Such consideration, however, shall not be construed as conferring upon this Tribunal any power of review or reconsideration of the original order beyond the scope expressly contemplated under Rule 31. The examination undertaken hereinafter is, therefore, confined to clarifying the implementation of the existing directions and shall not reopen the findings recorded therein.

19. The Applicant has raised two principal grounds in its written application. The first concerns its inability to obtain the bank details of certain homebuyers, out of approximately 1,525 homebuyers identified in

Annexure-11 of the DGAP Report, and its request to deposit the corresponding amounts in the Consumer Welfare Fund. The second concerns the deletion of the GST component of Rs. 15,99,865/- from the amount directed to be refunded. During the oral hearings, the Applicant additionally relied upon the subsequent order passed in ***Bengal Emami Housing Ltd.(supra)***, seeking similar relief on that basis.

20. The aforesaid grounds are examined hereinafter to address the submissions advanced by the Applicant and to clarify the extent to which any relief may be warranted. Such examination shall not be construed as conferring upon the Tribunal any wider power of review than that expressly contemplated under Rule 31.

21. Accordingly, the application is held to be not maintainable under Rule 31, as no clerical, arithmetical or factual mistake apparent from the record has been established. The grounds raised by the Applicant are nevertheless examined hereinafter, and the conclusions recorded in respect thereof shall govern the limited relief, if any, that may be granted in the present proceedings.

Determination of Issue (ii)

Whether the Applicant may be permitted to deposit the amounts attributable to the homebuyers in the Consumer Welfare Fund, in view of the stated inability to effect direct refunds to them?

22. The Applicant has submitted that the order dated 27.04.2026 directs it to refund the profiteered amount to approximately 1,525 homebuyers identified in Annexure-11 to the DGAP Report. It has contended that, despite its efforts, it has been unable to obtain the bank account particulars of certain homebuyers and, consequently, has been unable to effectuate direct refunds to them. The Applicant has, therefore, sought permission to

deposit the corresponding unrefunded amounts in the Consumer Welfare Fund.

23. The record reveals that, during the hearing held on 05.10.2026, the learned Counsel appearing on behalf of the Applicant sought permission to deposit the amount directed to be refunded to the homebuyers in the Consumer Welfare Fund. Accordingly, the Tribunal directed the Applicant to furnish the particulars of approximately 1,525 homebuyers, along with their bank account details, by 07.10.2026 through email, observing that further directions would be considered in case the requisite details were unavailable.

24. Subsequently, during the hearing held on 07.10.2026, the Learned Counsel for the Applicant submitted information relating to the homebuyers in compliance with the order dated 05.10.2026. However, the information furnished did not contain the bank account details of the homebuyers. The Tribunal recorded the submissions of the parties and passed the following order dated 07.10.2026:

> *In compliance with the order dated 05.10.2026, the learned Counsel submitted information relating to the homebuyers. However, the information submitted is incomplete, as it does not contain the bank details of the homebuyers.*
>
> *During the course of the hearing, the learned Counsel submitted that the bank details of the homebuyers were not available with the Respondent despite its best efforts. In view thereof, he requested that the Respondent may be allowed to deposit the profiteered amount in the Consumer Welfare Fund instead of paying the same to the respective homebuyers.*
>
> *Furthermore, all other contentions with respect to rectification were heard at length.*

25. The Tribunal has considered the submissions advanced by the Applicant and the proceedings recorded in the aforesaid daily orders. It is evident that the Applicant was specifically directed, vide order dated 05.10.2026, to furnish the particulars of the homebuyers, including their bank account details, by 07.10.2026. In compliance therewith, the Applicant submitted information relating to the homebuyers; however, the information was incomplete, as it did not contain their bank account details. During the subsequent hearing, the Applicant reiterated that the bank account details could not be obtained despite its best efforts and sought permission to deposit the profiteered amount in the Consumer Welfare Fund.

26. In this regard, it is apposite to reproduce Rule 133(3)(c) of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules"), which provides as follows:

> **Rule 133(3)(c):**
>
> "*the deposit of an amount equivalent to fifty per cent. of the amount determined under the above clause along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of deposit of such amount in the Fund constituted under section 57 and the remaining fifty per cent. of the amount in the Fund constituted under section 57 of the Goods and Services Tax Act, 2017 of the concerned State, where the eligible person does not claim return of the amount or is not identifiable.*"

It is evident from the plain language of the aforesaid provision that the deposit in the Consumer Welfare Fund is contemplated in two distinct circumstances, namely, where the eligible person does not claim return of the amount, or where such eligible person is not identifiable.

27. Section 57 of the CGST Act, 2017, which provides for the constitution of the Consumer Welfare Fund, reads as follows:

> ***"57. Consumer Welfare Fund.—***
>
> *The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,—*
>
> *(a) the amount referred to in sub-section (5) of section 54;*
>
> *(b) any income from investment of the amount credited to the Fund; and*
>
> *(c) such other monies received by it, in such manner as may be prescribed."*

28. A conjoint reading of Rule 133(3)(c) of the CGST Rules, 2017, and Section 57 of the CGST Act, 2017, indicates that the statutory framework contemplates deposit of the requisite amount in the Consumer Welfare Fund in two distinct circumstances: (i) where the eligible person does not claim return of the amount; and (ii) where the eligible person is not identifiable. The two circumstances are distinct and must be examined independently.In the present case, the homebuyers have been identified in Annexure-11 to the DGAP Report. The Applicant, however, contends that it has been unable to obtain the bank account particulars of certain homebuyers despite its efforts. The mere identification of an eligible person, coupled with the non-availability of bank account particulars, does not automatically establish that such person is unidentifiable within the meaning of Rule 133(3)(c). Equally, the absence of a refund, by itself, cannot be construed as establishing that the eligible person has not claimed the amount.The question, therefore, is whether the circumstances placed on record establish that the Applicant has undertaken reasonable and bona fide efforts to effectuate the refund and whether, despite such efforts and due

communication of the entitlement, the amount remains unclaimed by the eligible person, thereby attracting the first limb of Rule 133(3)(c). Alternatively, it must be examined whether any of the eligible persons can properly be regarded as unidentifiable within the meaning of the second limb of the said provision.

29. The daily orders dated 05.10.2026 and 07.10.2026, reproduced hereinabove, demonstrate that the Applicant was directed to furnish the particulars of the homebuyers along with their bank account details. Although information concerning the homebuyers was subsequently furnished, the requisite bank account details remained unavailable. The Applicant reiterated its request to deposit the corresponding amounts in the Consumer Welfare Fund. In these circumstances, it is necessary to examine not only the practical difficulty pleaded by the Applicant but also the legal principle governing a claim that compliance with a direction has become impossible despite reasonable efforts.

30. In this context, the Applicant has relied upon the decision of the Hon'ble Supreme Court in ***Arjun Panditrao Khotkar (supra)***, in support of the principle that the law does not compel a person to perform an act which has become impossible despite the person having taken all reasonable steps to comply.

31. The aforesaid judgement recognise the principle *lex non cogit ad impossibilia*, namely, that the law does not demand the impossible. However, the decision does not lay down that a mere assertion of difficulty or inability is sufficient to excuse compliance with a legal obligation. The Hon'ble Supreme Court emphasised the efforts made to obtain the requisite certificate from the person or authority concerned and the steps taken to seek the Court's assistance when such efforts did not succeed. The principle must, therefore, be understood in the context of the facts of that case and

cannot be construed as dispensing with the obligation to establish genuine inability despite reasonable efforts.

32. Although ***Arjun Panditrao Khotkar (supra)*** arose in the context of the admissibility of electronic evidence, the principle discussed therein is relevant, by analogy, to the Applicant's contention that it has been unable to obtain the bank account details necessary to effect direct refunds.

33. In considering the appropriate course of action in the aforesaid circumstances, reference may also be made to the decision of the Hon'ble Supreme Court in ***Pasupuleti Venkateswarlu v. The Motor & General Traders, (1975) 3 S.C.R. 958,*** concerning procedural flexibility and the moulding of relief to promote substantial justice. The Hon'ble Supreme Court observed that procedural rules should facilitate the administration of justice and that subsequent circumstances materially affecting the relief may be taken into account, provided that the requirements of fairness and applicable legal provisions are not violated. The relevant observations are reproduced below:

> *"We feel the submissions devoid of substance. First about the jurisdiction and propriety vis a vis circumstances which come into being subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief or the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no*

*specific provision or fairplay is violated, with a view to promote substantial justice-subject, of course, to the absence of other disentitling factors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding*s *provided the rules of fairness to both sides are scrupulously obeyed."*

34. The aforesaid decision recognises the power of a judicial forum, where otherwise legally permissible, to take cautious cognizance of relevant circumstances affecting the manner in which relief may appropriately be moulded. However, procedural flexibility and the objective of securing substantial justice cannot override an express statutory requirement or enlarge the jurisdiction conferred by law.

35. The Applicant's reliance on ***Arjun Panditrao Khotkar (supra)*** is considered in the context of the legal maxim *lex non cogit ad impossibilia*, which embodies the principle that the law does not compel a person to perform an act that has become impossible despite the exercise of reasonable efforts. However, the applicability of the aforesaid maxim must be established on the basis of cogent material demonstrating genuine impossibility and cannot be founded merely upon an assertion of difficulty or inability. Further, the said principle cannot be invoked to dispense with

an express statutory requirement or to enlarge the scope of Rule 133(3)(c) of the CGST Rules, 2017.

36. Accordingly, the Applicant shall remain under an obligation to effectuate direct refunds wherever the requisite particulars are available and payment can be made. In respect of the remaining amounts, the Applicant shall demonstrate that reasonable and bona fide efforts have been undertaken to communicate the entitlement to the concerned homebuyers and facilitate the refund, and that, despite such efforts, the amount remains unclaimed or cannot be disbursed in accordance with the aforesaid provision. The Applicant shall maintain a homebuyer-wise statement specifying the amount attributable to each eligible homebuyer, the particulars available, the efforts undertaken to obtain the requisite bank account details, the communications issued and responses received, and the basis for invoking Rule 133(3)(c), together with documentary evidence of the steps undertaken.

37. The Tribunal has also taken note of the email dated 30.10.2026 received from Shri V.K. Jain, the original complainant in the present proceedings, wherein he referred to the direction dated 05.10.2026 requiring the Applicant to furnish the particulars of the allottees, including their bank account details and relevant documents, by 07.10.2026, and sought an update regarding compliance therewith.

38. Shri V.K. Jain is an identified recipient under the DGAP Report. Accordingly, the Applicant is directed to refund directly to him the amount attributable to him, as determined in the DGAP Report and reflected in the relevant annexure, along with applicable interest in terms of the order dated 27.04.2026. The Applicant shall obtain his bank account particulars, if not already available, and ensure that the refund is effectuated. Proof of such payment shall be placed on record within the period stipulated in this order.

The amount attributable to the original complainant shall not be deposited in the Consumer Welfare Fund merely on the ground that his bank account particulars are presently unavailable.

39. In view of the foregoing discussion, the Tribunal considers it appropriate to permit the Applicant to deposit in the Consumer Welfare Fund only such amounts as are attributable to eligible homebuyers in respect of whom direct refunds cannot be effectuated, subject to compliance with the requirements of Rule 133(3)(c) of the CGST Rules, 2017. The Applicant shall undertake and document reasonable and bona fide efforts to facilitate direct refunds and, in respect of amounts remaining unrefunded, place on record the homebuyer-wise statement, the basis for invoking the aforesaid provision, and documentary proof of the deposits made, including compliance with the applicable allocation and interest requirements. The details of such compliance shall be furnished to this Tribunal.

40. Accordingly, the request of the Applicant concerning the manner of compliance with the refund directions is permitted to the aforesaid limited extent, subject to the conditions stipulated hereinabove. The permission is confined to the peculiar facts and circumstances of the present case and to such amounts in respect of which the requirements of Rule 133(3)(c) of the CGST Rules, 2017, are duly established. It shall not be construed as a general authorisation to substitute deposit in the Consumer Welfare Fund for direct refunds merely on account of non-availability of bank account particulars of identified homebuyers. The aforesaid clarification does not alter the determination of the profiteered amount or disturb the remaining directions contained in the order dated 27.04.2026.

Determination of Issue (iii)

Whether the GST component of Rs. 15,99,865/- included in the profiteered amount can be removed from the order dated 27.04.2026 by way of rectification?

41. The Applicant has further sought deletion of the GST component of Rs. 15,99,865/- from the aggregate amount directed to be refunded under the order dated 27.04.2026. The Applicant has contended that the said amount has already been deposited with the GST Department and that directing its refund to the homebuyers would result in an impermissible double recovery.

42. The aforesaid contention was considered and adjudicated by this Tribunal in the original order dated 27.04.2026. The Applicant is, therefore, seeking to reopen a matter that already stands decided on merits. In paragraph 19 of the original order, the Tribunal specifically examined the basis on which the profiteered amount had been computed and the consequential treatment of the GST component. It was observed that the DGAP had computed the profiteered amount by applying the ratio of ITC to the purchase value of goods and services, exclusive of GST, whereas the Applicant had collected the total consideration from the homebuyers inclusive of GST. Accordingly, the amount realised by the Applicant from the homebuyers included the GST component attributable to the additional amount collected.

43. In support of its conclusion, the Tribunal relied upon the judgment of the Hon'ble High Court of Delhi in ***Reckitt Benckiser India Pvt. Ltd.(supra)***.The relevant paragraph is reproduced verbatim below:

> *157. Both the Central as well as the State Government had no intent of collecting additional Goods and Services Tax on the higher price as they had sacrificed their revenue in favour of the buyer. By compelling the buyers to pay the additional Goods and Services Tax on a higher price, the supplier has not only defeated the intent of the Governments but has also acted against the*

interest of the consumer and therefore, the Goods and Services Tax collected by him on the additional realization has rightly been included in the profiteered amount."

44. The aforesaid principle was applied by this Tribunal while deciding the Applicant's liability in the order dated 27.04.2026. The issue was not left open, nor was the GST component included inadvertently or without consideration of the applicable legal position. The Tribunal consciously determined that the GST collected on the additional amount realised from the homebuyers formed part of the profiteered amount and was required to be returned accordingly.

45. The Applicant's contention that the GST component has already been deposited with the Government does not displace the aforesaid finding. Payment of GST to the Government does not, by itself, absolve the Applicant of its separate statutory obligation under Section 171 of the CGST Act to pass on the benefit arising from the availability of additional ITC to the recipients. The Applicant's argument proceeds on a conflation of its tax-payment obligation with its obligation to pass on the benefit to the homebuyers. These are distinct matters, and the former does not, by itself, negate the latter.

46. It is material to emphasise that the present proceedings arise under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, which permits correction of a clerical, arithmetical or factual mistake apparent from the record. The provision does not confer a power of review enabling a party to reopen a concluded issue merely because it seeks a different outcome or disagrees with the legal reasoning adopted by the Tribunal.

47. In the present case, the Applicant has not demonstrated any clerical, arithmetical or factual mistake apparent from the record in respect of the

inclusion of the GST component. On the contrary, the original order expressly addressed this issue and recorded a reasoned finding, supported by the judgment of the Hon'ble High Court of Delhi in ***Reckitt Benckiser India Pvt. Ltd.(supra)***. The Applicant's plea is, in substance, an attempt to secure reconsideration of that finding under the guise of rectification. Such an exercise falls outside the limited scope of Rule 31.

48. Accordingly, the Applicant's request for deletion of the GST component of Rs. 15,99,865/- is rejected. The issue having already been adjudicated in the order dated 27.04.2026, the finding and consequential direction contained therein concerning the GST component shall remain undisturbed.

Determination of Issue (iv)

Whether the subsequent order dated 02.09.2026 passed in *Bengal Emami Housing Ltd. (supra)*warrants rectification or modification of the order dated 27.04.2026 in the present case?

49. During the course of the oral hearings, the Applicant placed reliance upon the subsequent order passed by this Tribunal on 02.09.2026 in ***Bengal Emami Housing Ltd. (supra)*** and sought modification of the order dated 27.04.2026 on the basis of the relief granted therein. The Applicant has also relied upon the judgment of the Hon'ble Supreme Court in ***Honda Siel Power Products Ltd. (supra)***, in support of its contention that the power of rectification is intended to ensure that a party does not suffer prejudice on account of a mistake, error or omission attributable to the Tribunal.

50. The Tribunal has considered the aforesaid submissions. It is observed that the order dated 27.04.2026 was passed after consideration of the material on record, the submissions of the parties and the applicable statutory provisions. The subsequent order relied upon by the Applicant was passed

in separate proceedings arising out of the facts and circumstances of another case.

51. In ***Honda Siel Power Products Ltd. (supra)***, the Hon'ble Supreme Court examined the scope of the power of rectification and observed that the purpose underlying such power is to ensure that neither party suffers prejudice on account of a mistake committed by the Tribunal. The Hon'ble Supreme Court recognised that where prejudice results from a manifest error, mistake or omission attributable to the Tribunal, the Tribunal would be justified in rectifying the same. In that case, the Tribunal had failed to consider a decision of a coordinate Bench which had been cited and placed on record when the original order was passed. The Hon'ble Supreme Court held that the failure to consider the material already on record constituted a mistake warranting rectification in the circumstances of that case.

52. The aforesaid decision clarifies that the power of rectification is not to be construed so narrowly as to prevent correction of a manifest mistake or omission attributable to the Tribunal merely because its correction may affect the outcome of the matter. At the same time, the decision does not confer an unrestricted power to reconsider an adjudicated issue or to modify an order merely because a party subsequently relies upon a different decision. The material consideration is whether the alleged error is a manifest mistake apparent from the record and whether the prejudice complained of is attributable to such mistake, error or omission on the part of the Tribunal.

53. The aforesaid position is also consistent with the principles enunciated by the Hon'ble Supreme Court in ***State of Punjab v. Darshan Singh, (2004) 1 SCC 328***. While examining the scope of Section 152 of the Code of Civil Procedure, 1908, the Hon'ble Supreme Court clarified that the power of rectification cannot be exercised to reconsider issues going to the merits of

a case or to substantively alter an order under the guise of correcting an error. The relevant observations of the Hon'ble Supreme Court are reproduced below:

> *"Section 152 provides for correction of clerical or arithmetical mistakes in judgments, decrees or orders or errors arising therein from any accidental slip or omission. The exercise of this power contemplates the correction of mistakes by the Court of its ministerial actions and does not contemplate of passing effective judicial orders after the judgment, decree or order. The settled position of law is that after the passing of the judgment, decree or order, the same becomes final subject to any further avenues of remedies provided in respect of the same and the very Court or the tribunal cannot, on mere change of view, is not entitled to vary the terms of the judgments, decrees and orders earlier passed except by means of review, if statutorily provided specifically therefor and subject to the conditions or limitations provided therein. The powers under Section 152 of the Code are neither to be equated with the power of review nor can be said to be akin to review or even said to clothe the Court concerned under the guise of invoking after the result of the judgment earlier rendered, in its entirety or any portion or part of it. The corrections contemplated are of correcting only accidental omissions or mistakes and not all omissions and mistakes which might have been committed by the Court while passing the judgment, decree or order. The omission sought to be corrected which goes to the merits of the case is beyond the scope of Section 152 as if it is looking into it for the first time, for which the proper remedy for the aggrieved party if at all is to file appeal or revision before the higher forum*

or review application before the very forum, subject to the limitations in respect of such review. It implies that the Section cannot be pressed into service to correct an omission which is intentional, however erroneous that may be. It has been noticed that the courts below have been liberally construing and applying the provisions of Sections 151 and 152 of Code even after passing of effective orders in the lis pending before them. No Court can, under the cover of the aforesaid sections, modify, alter or add to the terms of its original judgment, decree or order. Similar view was expressed by this Court in Dwaraka Das v. State of Madhya Pradesh and Anr. (1999 (3) SCC 500) and Jayalakshmi Coelho v. Oswald Joseph Coelho (2001 (4) SCC 181) The basis of the provision under Section 152 of the Code is founded on the maxim 'actus curiae neminem gravabit 'i.e. an act of Court shall prejudice no man. The maxim "is founded upon justice and good sense, and affords a safe and certain guide for the administration of the law", said Cresswell J. in Freeman v. Tranah (12 C.B. 406). An unintentional mistake of the Court which may prejudice the cause of any party must and alone could be rectified. In Master Construction Co. (P) Ltd. v. State of Orissa (AIR 1966 SC 1047) it was observed that the arithmetical mistake is a mistake of calculation, a clerical mistake is a mistake in writing or typing whereas an error arising out of or occurring from accidental slip or omission is an error due to careless mistake on the part of the Court liable to be corrected. To illustrate this point it was said that in a case where the order contains something which is not mentioned in the decree, it would be a case of unintentional omission or mistake as the mistake or omission is attributable to

the Court which may say something or omit to say something which it did not intend to say or omit. No new arguments or re-arguments on merits can be entertained to facilitate such rectification of mistakes. The provision cannot be invoked to modify, alter or add to the terms of the original order or decree so as to, in effect, pass an effective judicial order after the judgment in the case."

54. The principles laid down in the aforesaid decisions must be applied in the context of the facts of the present case. In ***Honda Siel Power Products Ltd. (supra)***, the material which had allegedly been overlooked was a decision of a coordinate Bench that had already been cited and placed before the Tribunal when the original order was passed. The rectification was permitted because the Tribunal's failure to consider that material constituted a manifest error attributable to it. The present case, however, stands on a different footing. The order in ***Bengal Emami Housing Ltd.(supra)*** was passed on 02.09.2026, subsequent to the order dated 27.04.2026 sought to be rectified. It was, therefore, not a decision that had been placed before the Tribunal for consideration when the original order was passed.

55. Consequently, the subsequent order in ***Bengal Emami Housing Ltd.(supra)*** cannot, merely by virtue of having been passed in another matter, establish that the Tribunal committed a mistake or omitted to consider material available on the record when it passed the order dated 27.04.2026. Nor does the relief granted in the subsequent proceedings, by itself, establish that the findings recorded in the present case contain a manifest error.

56. The mere fact that a subsequent order has been passed in another matter, or that a party considers the relief granted therein to be favourable, does not constitute a clerical, arithmetical or factual mistake apparent from the

record of the original order. An application for rectification under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, cannot be employed as a means to seek alteration of the outcome of an adjudication merely by relying upon a subsequent order passed in separate proceedings.

57. The scope of rectification under Rule 31 is confined to correcting mistakes of the nature specified therein. It does not confer a general power of review or permit a concluded determination to be reopened merely because a subsequent order has been passed in another case. In the present matter, the Applicant has not demonstrated that the order dated 27.04.2026 contains a manifest clerical, arithmetical or factual mistake, or that the Tribunal inadvertently omitted to consider material which was available on the record when the original order was passed.

58. Accordingly, the Applicant's request for rectification or modification of the order dated 27.04.2026 on the basis of the subsequent order passed in ***Bengal Emami Housing Ltd. (supra)*** is rejected.

ORDER

59. In view of the foregoing, the application filed under Rule 31 of the Goods and Services Tax Appellate Tribunal (Anti-Profiteering Methodology and Procedure) Rules, 2025, seeking correction/modification of the order dated 27.04.2026, is partly allowed in the following terms:

(i) The Applicant's request to deposit amounts attributable to certain homebuyers in the Consumer Welfare Funds is allowed to the limited extent where direct refunds cannot be effected or possible, subject to

fulfilment of the conditions prescribed under Rule 133(3)(c) of the CGST Rules, 2017.

(v) The Applicant shall, within one month from the date of this order, refund the amounts directly to the concerned homebuyers wherever the requisite particulars are available and direct payment can be made. In respect of amounts required to be deposited in the Consumer Welfare Funds, the Applicant shall deposit 50% of the amount in the Central Consumer Welfare Fund and the remaining 50% in the concerned State Consumer Welfare Fund, in accordance with Rule 133(3)(c) of the CGST Rules, 2017. Where the Consumer Welfare Fund of the concerned State is not functional, the entire amount shall be deposited in the Central Consumer Welfare Fund.

(vi) The Applicant shall establish compliance with Rule 133(3)(c) of the CGST Rules, 2017, and maintain a homebuyer-wise statement specifying the amount attributable to each homebuyer, the efforts made to obtain bank account details, and the basis for depositing the amount in the Consumer Welfare Funds. The Applicant shall also maintain documentary proof of the steps taken and the deposits made, including compliance with the applicable allocation and interest requirements, and place the statement and proof of compliance on record.

(vii) The Applicant is directed to refund directly to the original complainant, Shri V.K. Jain, the amount attributable to him as determined in the DGAP Report, along with applicable interest under Rule 133(3)(b) of the CGST Rules, 2017. The Applicant shall obtain his bank account particulars, if required, and complete the refund within one month from the date of this order. Proof of payment shall be placed on record. The amount attributable to the complainant shall not be deposited in the Consumer Welfare Funds.

(viii) The Applicant's request to delete the GST component of Rs. 15,99,865/- is rejected. The direction contained in the order dated 27.04.2026 concerning the GST component shall remain unchanged.

(ix) The Applicant's request to modify the order dated 27.04.2026 on the basis of the subsequent order passed in ***Bengal Emami Housing Ltd. (supra)*** is rejected.

60. The determination of the profiteered amount of Rs. 1,33,32,208/-, together with the GST component of Rs. 15,99,865/-, aggregating to Rs. 1,49,32,073/-, shall remain unchanged. The direction to pay interest at the rate of 18% per annum under Rule 133(3)(b) of the CGST Rules, 2017, shall also remain in force, subject to the limited modification expressly provided in this order.

61. The Applicant is directed to comply with the directions contained in this order within 30 days from the date of its pronouncement. In the event of failure to comply with the aforesaid directions within the stipulated period, a penalty equivalent to 10% of the profiteered amount, in terms of Section 171(3A) of the CGST Act, 2017, shall be imposed upon the Applicant.

62. All other directions contained in the order dated 27.04.2026 shall continue to operate, except to the extent expressly modified by this order.

63. The application is disposed of in the above terms.

64. The order is pronounced in open court.

Digitally signed by
ARABANDI VENU PRASAD
04-11-2026 17:18:27 IST

(Sh. A. Venu Prasad)

DATE: - 04/11/2026