

GSTAT

Single Bench Court No. 3

NAPA/44/PB/2025

DGAP

.....**Appellant**

Versus

BHAVYA CONSTRUCTION PVT LTD. (BRAHMARAMBA
CINEMA), HYDERABAD

.....**Respondent**

Counsel for Appellant

Counsel for Respondent

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

Form GST APL-04A

[See rules 113(1) & 115]

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

whether remand order : No

Order reference no. : ZA070126000020H

Date of order : 07/01/2026

1.	GSTIN/Temporary ID/UIN - 36AAACB8482C1ZS	
2.	Appeal Case Reference no. - NAPA/44/PB/2025	Date - 20/12/2019
3.	Name of the appellant - DGAP , dgap.cbic@gov.in , 011-23741544	
4.	Name of the respondent - 1. Bhavya Construction Pvt Ltd. (Bramaramba Cinema Hall 70mm) , bhavya_9920@yahoo.co.in , 9849912577	
5.	Order appealed against -	

	(5.1) Order Type -	
	(5.2) Ref Number -	Date -
6.	Personal Hearing - 07/01/2026 15/12/2025 11/11/2025 14/10/2025 24/09/2025	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8.	Order in brief - The Tribunal holds that M/s Bhavya Construction Pvt. Ltd. contravened Section 171 of the CGST Act by not passing on the GST rate reduction benefit on cinema tickets, resulting in profiteering of Rs. 11,88,482/- (inclusive of GST). The Respondent shall deposit this amount within 30 days: Rs. 5,94,241/- to the Central Consumer Welfare Fund and Rs. 5,94,241/- to the Telangana State Consumer Welfare Fund (or fully to Central CWF if State fund unavailable). No interest is directed, as the amendment applied prospectively post most of the violation period. No penalty under Section 171(3A) applies, as it post-dates the contravention period. Jurisdictional CGST/SGST Commissioners and DGAP shall monitor compliance and submit a report within four months.	
Summary of Order		
9.	Type of order : Deposit in Consumer Welfare Fund/s	

Place :DELHIPB

Signature

Date : 07.01.2026

DELHIPB Sandeep

Designation : Stenographer/Law researcher

Jurisdiction :Delhi (PB)

ORDER

1. This proceeding emanates from the report of the Director General of Anti-Profiteering (DGAP) to determine whether the Respondent, M/s Bhavya Construction Pvt. Ltd. (Bramaramba Cinema Hall 70 MM), has contravened the provisions of Section 171 of the Central Goods and Services Tax Act, 2017, by not passing on the benefit of reduction in the rate of GST on

admission to cinema halls, resulting in profiteering to the tune of Rs. 11,88,482/- (Rupees Eleven Lakh Eighty-Eight Thousand Four Hundred Eighty-Two Only). On 01.07.2017, the CGST Act came into force with initial GST rates of 28% for tickets priced at Rs. 101/- or more and 18% for tickets priced at Rs. 100/- or less per person per show. These rates were reduced to 18% and 12% respectively w.e.f. 01.01.2019 vide Notification No. 27/2018-CT (Rate) dated 31.12.2018.

2. On 29.03.2019, an application was received by the Standing Committee on Anti-Profiteering from the Principal Commissioner, Medchal Commissionerate, Hyderabad, alleging profiteering by the Respondent. The Standing Committee referred the matter to DGAP on 28.06.2019 for a detailed investigation. The DGAP's report was received by the erstwhile NAA on 20.12.2019 and notice was issued to the Respondent on 24.12.2019 under Rule 129(3) of the CGST Rules, 2017.
3. The DGAP, in its investigation report dated 18.12.2019, observed that the Respondent continued charging the same gross ticket prices of Rs. 100/-, Rs. 70/- and Rs. 30/- (inclusive of Rs. 3/- tax-free theatre maintenance charge) both before and after 01.01.2019. Prior to rate reduction, GST @18% was paid on base prices of Rs. 84.75, Rs. 59.33 and Rs. 25.42 respectively. Post rate reduction, GST @12% was paid on increased base prices of Rs. 89.29, Rs. 62.50 and Rs. 26.79 respectively. The Respondent claimed that no profiteering benefit accrued as gross prices remained unchanged and pre-GST entertainment tax @14.5% was also embedded in the ticket amounts.
4. The DGAP examined sales data for ticket categories namely Maharaja Circle (Rs. 118, Rs. 100), Dress Circle (Rs. 70), First Class (Rs. 30) pre-rate reduction and Maharaja Circle (Rs. 130, Rs. 120, Rs. 100), Dress Circle (Rs. 80, Rs. 70), First Class (Rs. 40, Rs. 30) post-rate reduction. Despite GST reduction from 28% to 18% (above Rs. 100 tickets) and 18% to 12% (tickets Rs. 100 or less), the Respondent increased base prices instead of reducing gross ticket prices, thereby retaining the tax benefit. The DGAP quantified total profiteering at Rs. 11,88,482/- for the period 01.01.2019 to 30.06.2019 as detailed in Tables A & B of its report.

Table-A

		01.12.2018 to 31.12.2018			01.01.2019 to 30.06.2019						
A	B	C	D	E=[C/128% or 118%]	F	G	H	I	J=(I*118% or 112%)	K=H-I	
1	Maharaja Circle (Blockbuster movie)	115	28%	89.84	127	18%	107.63	89.84	106.02	17.78	
2	Dress Circle	67	18%	56.78	97	12%	86.61	82.20	92.07	4.40	
					77		68.75	56.78	63.59	11.97	
3	First Class	27	18%	22.88	37	12%	33.04	22.88	25.63	10.15	
					27		24.11	22.88	25.63	1.23	

- The DGAP had further quantified the data based on pre and post GST data and outward supplied details. The computation is detailed in **Table-B** below.

S No	Admission ticket	01.01.2019 to 30.06.2019						
		Base Price charged (Rs.)	Commensurate Base Price (Rs.)	Excess Amount charged per ticket (Rs.)	Excess tax charged per ticket @ 18% or 12%	Total Profiteering per ticket (Rs.)	Total tickets sold	Total Profiteering (including tax @18%) (in Rs.)
A	B	C	D	E= (C-D)	F= (E*18% or 12%)	G= (E+F)	H	I= (H*G)
1	Maharaja Circle (Blockbuster Movie)	107.63	89.84	17.78	3.20	20.98	9821	2,06,088
		99.15	89.84	9.31	1.68	10.98	16440	1,80,583
2	Dress Circle	86.61	82.20	4.40	0.53	4.93	94524	4,66,212
		68.75	56.78	11.97	1.44	13.41	8539	1,14,480
3	First Class	33.04	22.88	10.15	1.22	11.37	3796	43,171

	24.11	22.88	1.23	0.15	1.37	33980	46,651
Grand Total							11,88,482

5. The DGAP concluded that the Respondent profiteered by Rs. 11,88,482/- which was required to be passed on to the recipients by commensurate price reduction under Section 171. Since recipients were not identifiable, the amount was liable to be deposited in Consumer Welfare Funds. The report was considered by erstwhile NAA which issued notice dated 24.12.2019 to the Respondent to show cause why the findings should not be accepted.
6. The Respondent challenged the NAA notice by filing Writ Petition No. 3041/2020 before the High Court of Telangana. Interim orders were passed but were vacated on 03.06.2021, after which proceedings continued before this Tribunal.
7. The Respondent filed written submissions on various dates, finally on 13.10.2025 along with annexures. The Respondent contended that cinema ticket prices in Telangana are regulated under the Telangana Cinemas (Regulation) Act, 1955 through Government Orders issued by the Licensing Authority, which were challenged before the Hon'ble High Court. The Court set aside the G.O.s and permitted theatres to collect individual rates after informing the Licensing Authority, pending Government decision.
8. The Respondent submitted that profiteering, if any, should be computed only for movies released w.e.f. 01.01.2019 during the GST rate change period, treating each movie as a separate project, analogous to real estate projects (citing Macrotech Developers, Heeranandani, Vatika Group, Gaursons Realtech cases). Ticket prices for post-01.01.2019 movies were fixed considering GST reduction along with movie popularity, content, audience response, production house factors, demand, weekend factors, and producer/distributor approvals obtained from Licensing Authority.

9. The Respondent claimed specific permission was sought and obtained for enhanced ticket prices during 09.01.2019-24.01.2019 (movie "Katha") and 09.05.2019-16.05.2019 (movie "Maharshi") across Maharaja Circle, Dress Circle and First-Class categories, aggregating Rs. 5,44,389/- as per DGAP computation, which should be excluded from profiteering as these were approved revisions distinct from pre-rate change prices. The brief calculations are tabulated below:

Movie	Period	Category	Enhanced Ticket Price	No. of Tickets Sold	Profiteering per ticket as per DGAP Report	Amount (Rs.)
Maharshi	09.05.2019 to 16.05.2019	Maharaja Circle-blockbuster	130	9821	21	2,06,045
Katha	09.01.2019 to 24.01.2019	Maharaja Circle-blockbuster	120	16440	11	1,80,676
Maharshi	09.05.2019 to 16.05.2019	Dress Circle	80	3753	13	50,328
Katha	09.01.2019 to 24.01.2019	Dress Circle	80	4786	13	64,180
Maharshi	09.05.2019 to 16.05.2019	First Circle	40	1437	11	16,339
Katha	09.01.2019 to 24.01.2019	First Circle	40	2359	11	26,822
Total						5,44,389

10. The Respondent argued absence of prescribed methodology under CGST Act/Rules/Procedure for profiteering computation renders proceedings arbitrary, violating Article 14 and natural justice principles (citing Eternit Everest Ltd. v. UOI). It highlighted international practices (The Malaysia Net Profit Margin Regulations, 2014 and the Australia Net Dollar Margin Rule) and inconsistent DGAP methodologies across cases. Section 171's "commensurate reduction" considers all pricing factors, not just tax benefit in monetary terms.

11. The Respondent contended inclusion of 18% GST in profiteering amount is erroneous as all collected GST was remitted to Government exchequer without loss to public revenue (citing R.S. Joshi v. Ajit Mills). Excess GST paid on increased base prices (Rs. 0.53/ticket for Maharaja Circle, Rs. 0.37/ticket for Dress Circle, Rs. 0.15/ticket for First Class, totaling Rs. 69,455/-) should be excluded from profiteering. The investigation period (01.01.2019-

30.06.2019) lacks statutory basis and should be limited to 3 months to account for cost changes.

12. A copy of the Respondent's submissions was forwarded to DGAP for clarification. The DGAP submitted that the Respondent's claim of price control by producers/distributors and licensing authority approval is contradictory and unsupported by evidence. Letters dated 07.01.2019 and 25.04.2019 to Commissioner of Police, Cyberabad were mere intimations, not permissions, as no approval documents were produced. The CCI order in M/s Miraj Entertainment Ltd. is inapplicable as it concerned tickets sold beyond six months from rate notification, unlike the present case.
 - 12.1 The DGAP clarified that Section 171 provides sufficient methodology through Rule 129 mechanism and cinema-specific parameters (special movies, weekends, show timings). No court or Authority has questioned the DGAP's methodology, upheld in multiple cinema cases. The Respondent's contention regarding arbitrary proceedings is rejected.
 - 12.2 Regarding exclusion of Rs. 5,44,389/- for movies "Maharshi" and "Katha Nayakudu", DGAP noted the letters are mere acknowledgments with illegible stamps, lacking authenticity as formal permissions. Unlike Miraj Cinemas (which reduced regular prices from February 2019), the Respondent made no such reductions, hence the finding of profiteering stands for these movies.
 - 12.3 On inclusion of GST in profiteering amount, DGAP clarified that Section 171 requires return of excess collection (base + tax) to recipients or Consumer Welfare Fund, irrespective of Government deposit. The Respondent could have issued credit notes under Section 34. Excess GST contention (Rs. 69,455/-) is rejected as legislative intent mandates full price reduction including tax component.
 - 12.4 In view of DGAP clarifications dated 26.06.2024, all the contentions of Respondent are rejected. The profiteering amount of Rs. 11,88,482/- as determined in DGAP report dated 18.12.2019 stands confirmed in toto.
13. Hearings in the matter were conducted on 24.09.2025, 14.10.2025, 11.11.2025 and on 15.12.2025. Shri Venkata Prasad, Advocate, assisted by

Shri Ashish Chowdhary, appeared for the Respondent. A rejoinder was filed before this Tribunal, which was taken on record. The DGAP submitted clarifications dated 07.11.2025 in response to the rejoinder, copies of which were furnished to the Respondent.

14. The Respondent, in rejoinder dated 26.06.2024, substantially reiterated earlier submissions and raised an additional contention that interest is not leviable for the period prior to 28.06.2019 when Rule 133(3)(c) was amended prospectively vide Notification No. 31/2019-CT dated 28.06.2019. Reliance was placed on CIT v. Vatika Township Pvt. Ltd. (2015) 1 SCC 1 and on the GSTAT order in DGAP v. Procter & Gamble Group (NAPA/13/PB/2025 dated 10.09.2025), holding interest applicable only from amendment date. Thus, interest, if any, is confined to the period from 28.06.2019 to 30.06.2019.
15. I have carefully examined the facts of the case, the contents of the DGAP's report alleging anti-profiteering of Rs. 11,88,482/- by the Respondent as well as the written submissions made by the Respondent during the proceedings and the clarifications given on those submissions by the DGAP. It is an undisputed fact that the GST rate on Cinema Tickets was reduced with effect from 01.01.2019 vide Notification No. 27/2018-CT (Rate) dated 31.12.2018 for tickets priced at Rs. 101 or more, from 28% to 18%, and for tickets priced Rs. 100 or below, from 18% to 12%. It is also an undisputed fact that the Respondent had not reduced the Cinema Ticket prices, after reduction of GST rates with effect from 01.01.2019. The various contentions of the Respondent are examined below: -
 - 15.1 **Prices are regulated under the Telangana Cinemas (Regulation) Act, 1955 and through Government Orders; High Court orders allowed individual pricing subject to intimation/approval, so ticket pricing followed that regime:**
The Respondent's reliance on the Telangana Cinemas (Regulation) Act, 1955, Government Orders fixing maximum ticket prices, and High Court orders permitting pricing subject to intimation does not absolve it of liability under Section 171 of the CGST Act. As held in Mallikarjuna Cinema Hall (NAPA/3/PB/2025 dated 12.09.2025), these State instruments merely prescribe an upper ceiling on prices and leave discretion with theatre owners for fixing rates within that limit for specific classes, localities or

shows; they neither authorise nor provide for non-passing of GST rate reductions to consumers, nor override the central mandate of commensurate price reduction.

Further, Section 171 casts a clear obligation to pass on the benefit of reduction in the rate of tax by way of commensurate reduction in prices, and any such reliance on State-level cinema regulation statutes or governmental orders fixing only the *maximum* permissible ticket rates is, at best, a procedural and regulatory framework and not, by itself, a cogent basis to justify complete non-passing of tax benefits to consumers. A mere plea that they have acted in accordance with the State cinema law or that its tariffs were approved/within the notified ceiling cannot, **explain why prices were not reduced even for a single day after the GST rate cut**—or how such conduct can be reconciled with the central anti-profiteering mandate; Central law prevails, and the Respondent's compliance with State procedural limits cannot justify retention of tax benefits. The Respondent have not submitted any contemporaneous material demonstrating genuine commercial compulsions (such as quantified cost escalations) that made commensurate reduction impossible, which falls short of the standard of a clear, cogent and objective justification required to displace the presumption that the benefit of tax reduction ought to have flowed to the recipients.

15.2 Profiteering should be computed movie-wise (project-wise analogy), and enhanced prices for "Katha" and "Maharshi" (Rs. 5,44,389/-) should be excluded as they were "approved" by the Licensing Authority (letters to Commissioner of Police, Cyberabad):

The DGAP in its report has categorically noted that they have examined the Respondent's letters dated 07.01.2019 and 25.04.2019 to the Commissioner of Police, Cyberabad, and clarified that these are mere intimations/acknowledgments lacking legible approval stamps or formal permissions under the Cinemas Act. No supporting documents evidencing actual grant of enhanced pricing authority were produced, rendering the claim unsubstantiated. During the proceeding before the Bench the Respondent has failed to submit any evidence that he has got approval about the intimation for increase in the prices submitted to Commissioner of Police, Cyberabad. There is no merit in the contention of the Respondent for treating each movie as a separate "project" (analogous to real estate)

and the same is rejected as cinema ticket sales constitute a continuous supply, not discrete projects, and the Respondent never reduced regular prices even post-GST cut (unlike Miraj Entertainment, where regular ticket prices were reduced from February 2019). The systematic maintenance or increase of gross prices from 01.01.2019 across all categories confirms non-passing of benefits, as verified in Tables A & B of the DGAP's report mentioned in para 4 above, which the Respondent has not disputed.

15.3 There is no clear statutory methodology; international practice and inconsistency in DGAP approaches make the proceedings arbitrary; "commensurate reduction" must consider wider commercial factors.

I find that the statutory mandate under section 171 of the CGST Act is that any reduction in the 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. The provision does not freeze or regulate the base price of the supplier in the abstract, but requires that the benefit of the tax reduction must reach the ultimate consumer through an objectively commensurate reduction in the consideration actually charged for the supply.

15.3.1 In interpreting section 171, the Hon'ble Delhi High Court in Reckitt Benckiser India Pvt. Ltd. vs. Union of India, 2024 SCC Online Del 588, has held that while a supplier is at liberty to set and vary base prices in accordance with commercial and economic factors and applicable laws, such increase in base price must be a genuine exercise and not a mere pretence to appropriate the benefit of tax reduction. The Court has clarified that any presumption of reduction in prices is rebuttable; however, if the supplier asserts other factors as justification, such factors must be established on a cogent basis and cannot be employed as a device to circumvent the obligation of commensurate reduction contemplated under section 171.

15.3.2 In cinema ticket cases, the test of commensurate reduction is applied by comparing: (a) the base price and tax component in the pre-rate-reduction period, with (b) the base price and reduced tax rate in the post-reduction period, for each ticket category. Where, after a reduction in GST rate (for example from 28% to 18% or from 18% to 12%), the supplier

simultaneously raises the base price so that the ultimate price to the consumer does not reduce commensurately, the resulting increase in base price plus the associated tax constitutes profiteering under section 171.

15.3.3 In the present proceedings, the Tribunal noted three ticket categories (Maharaja Circle, Dress Circle and First Class) and found that, although GST rates were reduced with effect from 01.01.2019, the respondent increased or left the base prices unchanged, resulting in higher prices to consumers post-reduction. The method of calculation adopted by the DGAP, tabulated separately for each ticket class (Tables A and B of the report), was not disputed by the respondent either as to methodology or figures. This method—computing a “commensurate base price” by applying the reduced GST rate to the pre-reduction all-inclusive price and then comparing it with the actual post-reduction base price provides a rational and workable formula which can safely be adopted in similar cases, unless specifically rebutted on the basis of cogent material.

15.4 GST component should not be treated as profiteering since it was remitted to Government; investigation period should be shorter to reflect changing costs.

The Respondent's contention that the GST component (quantified at approximately Rs. 69,455/-, comprising excess GST per ticket such as Rs. 0.53/- for Maharaja Circle, Rs. 0.37/- for Dress Circle, and Rs. 0.15/- for First Class) ought to be excluded from the profiteered amount since all collected GST was duly remitted to the Government exchequer without any loss to public revenue, is wholly untenable and contrary to the statutory scheme under Section 171 of the CGST Act.

15.4.1 As observed by the DGAP in its response dated 26.06.2024, Section 171 mandates the pass-through of tax rate reduction benefits to the recipient/consumer through commensurate reduction in the total price charged (base price + tax thereon); the consumer suffers the economic detriment of paying the inflated all-inclusive ticket price, irrespective of whether the supplier remits the embedded GST portion to the exchequer. The legislative intent, as upheld in Mallikarjuna Cinema Hall (NAPA/3/PB/2025 dated 12.09.2025), is to ensure that the entire benefit reaches the ultimate consumer, precluding unjust retention by the supplier;

thus, the profiteered amount comprises both the excess base price charged and the GST collected on such excess base, as methodically quantified in Table-B referred above in Para 4.

15.4.2 I also notice that the Respondent had the statutory option under Section 34 of CGST Act to issue credit notes for retrospective price adjustment and pass-through the benefit, but failed to do so; mere remittance of GST does not extinguish the supplier's liability to disgorge the total excess collection to identifiable recipients or, in their absence, the Consumer Welfare Fund(s). The contention that "no public revenue loss occurred" misconstrues Section 171, which protects consumer welfare, not Government revenue, therefore, I hold that GST component forms an integral part of the profiteered amount of Rs. 11,88,482/-.

15.4.3 As regards the contentions of the Respondent that the investigation period should have been limited to three months on account of cost changes, I observe that the Respondent has not given any reason or justification or any iota of evidence justifying that there was any increase in the cost of production/marketing of movies. Therefore, I find that the 6-month period from 01.01.2019 to 30.06.2019 is quite reasonable and justified for determining the profiteering amount.

15.5 Interest under Rule 133(3)(c) is only prospective from 28.06.2019; relying on Vatika Township and GSTAT Procter & Gamble order.

The Respondent's contention on interest under clause (c) of sub-rule (3) of Rule 133 of the CGST Rules, 2017 merits acceptance, following the precedent in DGAP v. Mallikarjuna Cinema Hall (NAPA3PB2025 dated 12.09.2025) and DGAP v. Procter & Gamble Group (NAPA/13/PB/2025 dated 10.09.2025), which applied the Constitution Bench ratio in C.I.T. v. Vatika Township Pvt. Ltd., (2015) 1 SCC 1. The amendment inserting the power to direct payment of interest at 18% per annum on the profiteered amount was introduced vide Notification No. 31/2019-Central Tax dated 28.06.2019 (Fourth Amendment Rules), which, per sub-rule (2) of Rule 1 thereof, came into force on the date of publication in the Official Gazette (28.06.2019), save as otherwise provided; no deferred date was specified for Rule 17 amending Rule 133(3)(c), unlike Rule 5 (QRMP scheme). This provision creates a substantive and onerous liability, imposing a new burden, attracting the presumption against retrospective operation

embodied in the maxim *nova constitutio futuris formam imponere debet non praeteritis*, absent express words or necessary implication to the contrary; it is neither clarificatory nor curative, as the word "further" in the notification signals prospective advancement, not past clarification. Thus, interest liability arises only pro-rata for the three days within the investigation period falling on or after 28.06.2019 (i.e., 28.06.2019 to 30.06.2019), computed on 3/181 of the total profiteered amount of Rs. 11,88,482/- (\approx Rs. 19,723/- principal at 18% p.a. yielding \approx Rs. 92/- interest), which sum is negligible and, in line with the Mallikarjuna precedent, waived in exercise of discretion. No interest is payable for the period prior to 28.06.2019.

16. In view of the above discussions and findings, I hold that there is no flaw in the DGAP's methodology for computation profiteered amount under Section 171 of the CGST Act, there is no single fixed formula that fits every case, especially in the cinema business, where factors like different movies, show timings, weekdays vs. weekends, and ticket classes vary from hall to hall and case to case. It is pertinent to note that the Respondent never disputed the numbers or method of computation in Tables A and B during the hearings before the Bench. Thus, I hold that the Respondent has contravened the provisions of Section 171 of the CGST Act by not passing on the benefit of reduction in GST rates commensurately to the recipient and thus the Respondent has profiteered an amount of Rs. 11,88,482/-.
17. The Respondent is now directed to deposit the full profiteered amount of Rs.11,88,482/- (which already includes the GST part) into the Consumer Welfare Funds. This should be split equally: 50% or Rs.5,94,241/- to the Central Consumer Welfare Fund, and the other 50% or Rs.5,94,241/- to the Telangana State Consumer Welfare Fund (or fully to the Central CWF if the State Consumer Welfare Fund is not available). The Respondent shall do so within 30 days from the date of this order.
18. There is no interest to pay, as explained above. Further, it is held that no penalty under Section 171(3A) of the CGST Act is imposable, because that provision came into force only after 01.01.2020, long after the violation period ended. The jurisdictional Commissioners of CGST and SGST, along with the DGAP, will monitor the compliance this order.

19. A report in compliance of this order shall be submitted to this Tribunal by the concerned Commissioner within a period of four months from the date of receipt of this order.
20. A copy each of this order shall be supplied to the Respondent and to the concerned Commissioner CGST / SGST for necessary action.

This order is pronounced in open Court today.

Sd/-
(Sh. Anil Kumar Gupta)

Dated: 07.01.2026

S.P