

BEFORE THE NATIONAL ANTI-PROFITEERING AUTHORITY UNDER THE
CENTRAL GOODS & SERVICES TAX ACT, 2017

I.O. No. 10/2022
Date of Institution 28.10.2021
Date of Order 04.08.2022

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 Puma Realtors Pvt. Ltd., A-11, 1st Floor, Neeti Bagh, New Delhi South Delhi-
110049 (03AADCP6870D1ZM).

Respondent

Quorum:-

1. Sh. Amand Shah, Technical Member & Chairman
2. Sh. Pramod Kumar Singh, Technical Member
3. Sh. Hitesh Shah, Technical Member

Order



The present Report dated 28.10.2021, was received from the Director General of Anti-Profiteering (DGAP) pursuant to the Interim Order (I.O.) No. 14/2019 dated 21.10.2019 issued by this Authority under Rule 133(5)(a) of the CGST Rules 2017 in the matter of M/s Ireo Grace Realtech Pvt. Ltd. (IGRPL), Ireo Campus-Sector-59, Archview Drive, Ireo City, Golf Course Extension Road, Gurugram-122101. Brief facts of the case are that during the proceedings under Section 171 of the CGST Act 2017 against the project "The Corridors" of IGRPL, this Authority had reason to believe that IGRPL has executed/was executing several projects. Hence this Authority had issued aforesaid I.O. dated 21.10.2019 inter alia directing the DGAP to investigate all projects of IGRPL to ascertain whether violation of the provision of Section 171 of the CGST Act 2017.

2. Accordingly, the DGAP had vide his Report dated 28.10.2021 reported on all other projects of IGRPL and such Projects with brand name "IREO" in terms of section 171 of the CGST Act 2017 wherein he has inter alia stated that:-

(i). All the projects of IGRPL, with the brand name "IREO" discussed in the I.O.14/2019 have been taken up for investigation. Details of the same are tabulated in Table -A below.

As the Occupancy Certificates covering the entire projects mentioned in serial No.1 and 2 of the Table have been issued in the pre-GST period, hence both the projects were kept out of the purview of the investigation, and the projects mentioned at serial No. 9 & 10 of the table, have been concluded and report has been submitted to this Authority separately. Accordingly, the remaining six projects at serial Nos. 3 to 8 where Occupation Certificate has not been issued before GST implementation, the NOI has been issued on 15.01.2021 to look into the aspect of violation of provisions of Section 171 of the Act. Therefore, the six remaining projects have been considered for investigation.

TABLE-A

S.No.	Name of the Company	Name of the Project	Location	Date of Occupation Certificate	GST benefit derived based on DGAP methodology
1	Ireo Pvt. Ltd.	Ireo Grand Arch	Gurugram, Haryana	18.09.2014, 17.12.2015, 08.02.2017	No Benefit derived
2	Ireo Pvt. Ltd.	Ireo Uptown	Gurugram, Haryana	18.02.2015, 21.10.2015	No Benefit derived
3	Ireo Pvt. Ltd.	Skyon	Gurugram, Haryana	26.08.2016, 14.09.2017	No Benefit derived
4	Ireo Pvt. Ltd.	Ireo City Central	Gurugram, Haryana	20.11.2018	No Benefit derived
5	Ireo Pvt. Ltd.	Managed Service Apartment	Gurugram, Haryana		No Benefit derived
6	Ireo Victory Valley Pvt. Ltd	Victory Valley	Gurugram, Haryana	25.07.2016, 28.09.2017	No Benefit derived
7	Ireo Waterfront Pvt. Ltd.	Ireo Waterfront	Ludhiana, Punjab	14.03.2012, 02.08.2012, 07.06.2013, 02.08.2013, 06.08.2013, 22.08.2013, 10.01.2014, 02.09.2015, 27.11.2017, 29.11.2017	No Benefit derived
8	Puma Realtors Pvt. Ltd.	Ireo Rise	Mohali, Punjab	30.06.2017 01.03.2018	No Benefit derived
9	Ireo Pvt. Ltd.	Gurgaon Hills	Gurugram, Haryana	Applied on 25.09.2018	2.14%
10	Ireo Residences Co. Pvt. Ltd.	Grand Hyatt Gurgaon Residences	Gurugram, Haryana		0.98%

(ii). Consequent to the above, it was decided to expand the scope of the investigation and called for the required documents/information to ascertain whether the benefit of the input tax credit has been passed on in terms of Section 171 of the Central Goods and Services Tax Act, 2017 to the recipients in respect of construction service supplied by;

(a). **M/s Ireo Pvt. Ltd.**, Ireo Campus, Sector 859, Archview Drive, Ireo City, Golf Course Extension Road, Gurugram-122101 for the projects "**Skyon**", "**Ireo City Central**" and "**Managed Service Apartment**".

(b). **M/s Ireo Victory Valley Pvt. Ltd.**, 305, 3rd Floor, Kanchan House, Karampura commercial complex, New Delhi 110015 for the project "**Victory Valley**".

(c). **M/s Ireo Waterfront Pvt. Ltd.**, C-4, 1st Floor Malviya Nagar, New Delhi, 110017 for the project "**Ireo Waterfront**".


(d). **M/s Puma Realtors Pvt. Ltd.**, A-11, 1st Floor, Neeti Bagh, New Delhi South Delhi-110049 for the project "**Ireo Rise**".

(iii). Vide the instant Report, only **M/s Puma Realtors Pvt. Ltd. (the Respondent)**, for his project "**Ireo Rise**" has been investigated covering the period from 01.07.2017 to 31.12.2020. In respect of **M/s Ireo Pvt. Ltd.**, **M/s Ireo Victory Valley Pvt. Ltd.**, and **M/s Ireo Waterfront Pvt. Ltd.**, the cases have been investigated separately.

(iv). On receipt of directions issued vide above said IO dated 21.10.2019, the DGAP had issued a Notice under Rule 129 of the CGST Rules, 2017 on 15.01.2021, calling upon the Respondent to reply as to whether he admits that the benefit of input tax credit had not been passed on to the recipients by way of commensurate reduction in price and if so, to suo moto determine the quantum thereof and indicate the same in their reply to the Notice as well as furnish all supporting documents.

(v). Accordingly, in response to the Notice dated 15.01.2021, the Respondent replied vide letters/ emails dated 25.01.2021, 29.01.2021, 24.02.2021, and 16.07.2021 and submitted the following documents/ information:

(a) Brief profile of the Respondent.

- (b) Copies of GSTR-1 & GSTR-3B returns for the period July 2017 to Dec. 2020.
- (c) Copies of Tran-1 return for transitional credit availed by the Respondent.
- (d) Copies of ST-3 returns for the period October 2016 to June 2017.
- (e) Electronic Credit Ledger for the period July 2017 to Dec. 2020.
- (f) CENVAT/ITC register for the period 2017-18, 2019-20 & 2020-21.
- (g) Applicable tax rates, pre-GST and post-GST. 
- (h) Copy of Balance Sheet for FY 2016-17 & 2017-18.
- (i) Copy of Order of National Company Law Tribunal (NCLT) for initiation of Corporate Insolvency Resolution Process (CIRP) dated 17.10.2018.
- (j) Copy of Order of National Company Law Tribunal (NCLT) for the conclusion of CIRP dated 01.06.2021.
- (k) Copy of Resolution Plan.

(vi). He (the DGAP) had carefully examined the aforesaid replies and the documents/evidence furnished by the Respondent and had found that the key issues for determination were:-

- Whether there was a reduction in the rate of tax or benefit of the input tax credit on the supply of construction service by the Respondent after implementation of GST w.e.f. 01.07.2017 and if so,
- Whether the Respondent passed on such benefit to the recipients, in terms of Section 171 of the Central Goods and Services Tax Act, 2017.
- Whether the proceedings initiated vide NOI dated 15.01.2021 issued to the Respondent seeking information/documents relating to an alleged contravention of Section 171 of the Central Goods and Services Tax Rules, 2017 under Rule 129 ibid can be continued once the CIRP has been concluded by the NCLT.

(vii). On the issues mentioned in para 2 (vi) above, he had observed that no reduction in the rate of tax on implementation of the GST whereas before 01.07.2017, i.e., before GST was introduced, the Respondent was eligible to avail

CENVAT credit of Service Tax paid on the input services. However, the CENVAT credit of Central Excise duty paid on the inputs was not admissible as per the CENVAT Credit Rules, 2004, which was in force at the material time. Similarly, for a VAT dealer operating under the Composition Scheme also the Input Tax Credit of VAT paid on the purchases of inputs was also not available. However, post-GST, the Respondent could avail of all the input tax credit of GST paid on all the inputs and input services, and hence there is an accrual of the benefit of ITC to the Respondent which needs to be passed on to the homebuyers who have made payments in the post-GST regime. However, since the Respondent did not furnish all the required documents including the vital documents such as the homebuyers' list etc., required for concluding the investigation to ascertain whether there is any benefit of the Input Tax credit has accrued to the Respondent and if so the said benefit of Input Tax Credit has been passed on to the home buyers in whose case demands have been raised or advances have been received post-GST could not be concluded.

(viii). The Respondent vide his letter dated 28.06.2021 submitted that Corporate Insolvency Resolution Process ("CIRP") had been initiated under the Insolvency and Bankruptcy Code, 2016 ("Code") against him vide Order dated 17.10.2018 passed by the Hon'ble National Company Law Tribunal ("NCLT"), New Delhi and the said CIRP has been concluded by the NCLT, New Delhi vide Order dated 01.06.2021 whereby the Resolution plan filed by the One City Infrastructure Pvt. Ltd. has been duly approved and subsequently implemented. Further, the Respondent has also submitted vide the reference cited above, that *"In terms of the Resolution Plan, so approved, as the Department of Central Board of Indirect Taxes and Customs did not file any claim before the Resolution Professional, who had been appointed under the Code, therefore, the dues against Central Board of Indirect Taxes and Customs Department have been treated as 'NIL' and the plan has been duly approved by the Hon'ble National Company Law Tribunal, New Delhi. Furthermore, any assessment proceedings, which may have been initiated by any government authority shall stand terminated by virtue of the approval of the Resolution Plan. The relevant portion of the Resolution Plan is enumerated hereinafter:*

i. All other claims or demands made by, or liabilities or obligations owed or payable to or assessed by, the Governmental Authorities including but not

limited to the Central government, the State governments, any regulatory or local authority or body or any agency or instrumentality thereof, in relation to any taxes, including all such dues, duties, direct or indirect, penalties, fees, interest, fines, levies, cesses, assessments or additions or any other charges or payments whatsoever whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the IM, the balance sheets of the Company or the profit and loss account statements of the Company or the List of Creditors, in relation to any period prior to the Plan Effective Date, will be written off in full and will be deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Company or the Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto. It is also proposed that no interest or penalty should be levied on the crystallized statutory liabilities with respect to the statutory liabilities of the Company prior to the Plan Effective Date.

ii. Specifically, all dues under the provisions of Applicable Laws relating to ongoing litigations whether admitted or not, due or contingent, whether or not set out in the IM, the balance sheets of the Company or the profit and loss account statements of the Company or the list of creditors, asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, in relation to any period prior to the Plan Effective Date, shall stand extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Company shall not be liable to pay any amount against such dues. All notices, assessments, appellate or other proceedings pending or threatened in relation to the Company, in relation to any period prior to the Plan Effective Date or arising on account of the acquisition of control by the Applicant over the Company pursuant to this Resolution Plan, shall stand terminated and withdrawn and all consequential liabilities, if any, shall stand extinguished and be considered as not payable by the Company or the applicant by virtue of the order of the NCLT approving this Resolution Plan and any re-assessment, revision or other proceedings under the provisions of the Applicable Laws relating to taxes would be deemed to be barred in relation to any period prior to the Plan Effective Date, by virtue of the order of the NCLT approving this Resolution Plan.

iii. Without prejudice all liabilities (including without limitation, for any tax, penalty, Interest, fines or fees) or obligations of the Company, in relation to: (A) any investigation, inquiry or show-cause, whether civil or criminal; (B) any Non Compliance of provisions of any Applicable Laws, rules, regulations, directions, notifications, circulars, guidelines, policies, licenses, approvals, consents or permissions; (C) change of control, transfer charges, unearned increase compensation, or any other such liability whatsoever under any contract, agreement, lease, license, approval, consent or permission to which the Company are entitled; (D) any leasehold rights or freehold rights to movable or immovable properties in the possession of the Company (including but not limited to the leases, letter of intent or other agreements/contracts/arrangements for immovable property entered into by the Company with the Central Government and State Government); (E) any contracts, agreements or commitments made by the Company, (F) any excise, customs, income tax, property tax, wealth tax, service tax, VAT, Sales Tax, goods and service tax demand notices in each of the foregoing cases whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, secured or unsecured, disputed or undisputed, whether or not set out in the IM the balance sheets of the Company or the profit and loss account statements of the Company or the list of creditors, in relation to any period prior to the Plan Effective Date or arising on account of the acquisition of control by the Applicant over the Company pursuant to this Resolution Plan, will be written off in full and will be deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and all such investigations, inquiries or show-cause, whether civil or criminal in relation to the foregoing shall be disposed of, and the Company or the Applicant shall at no point of time be, directly or indirectly, held responsible or liable in relation thereto.

iv. Any and all rights and entitlements of the Governmental Authorities including but not limited to the Central Government, the State Governments any regulatory of local authority or body or any agency or instrumentality thereof (or any other party or entity (under any agreement, lease, license, approval, consent or permission) whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, disputed or undisputed, in relation to any period prior to the Plan Effective Date, shall be

deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Company or the Applicant shall at no point of time, directly or indirectly, have any obligation liability or duty in relation thereto”.

(ix). The Respondent has further submitted that, as Resolution Plan is being approved and implemented, no assessment proceedings can continue against him and in terms of Insolvency and Bankruptcy Code, 2016 as well as various precedents of the Hon'ble Supreme Court of India, Hon'ble High Courts as well as Hon'ble NCLAT and Hon'ble NCLT and referred to Ultra Tech Nathdwara Cement Ltd. vs. Union of India and Ors. [DB Civil Writ Petition No. 9480/20191, whereby after implementation of the resolution plan, the Central Goods and Services Tax Department issued demand notices to the corporate debtor (CD) on the ground that the RP / CoC did not pay entire dues of the Department as claimed in the resolution process and they were not heard at the time of approval of resolution plan. The Hon'ble High Court of Rajasthan set aside the notices issued by the Department as illegal, stating that the fresh demand notices are illegal and arbitrary. He had also referred to “The State of Haryana Vs. Uttam Strips Ltd. (Company Appeal (AT) (Insolvency) No. 319/20201” wherein the Hon'ble NCLAT observed that the appellant had failed to file the claim before the RP and has no right to claim its dues from the resolution applicant and held that a successful resolution applicant cannot be burdened with past liabilities since this would make it impossible for it to run the business, ultimately defeating the entire purpose and mechanism of the Code.

(x). Given the provision made under Section 238 of the IBC, 2016, he observed that *“the provisions of this code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law:”*. Thus, even if it is argued that the provisions of Section 171 of the CGST Act, 2017 have been violated, the provisions of IBC, 2016 will nonetheless prevail.

(xi). As per section 31 of the IBC code, 2016 as amended vide the Insolvency and Bankruptcy Code (Amendment) Act, 2019 no. 26 of 2019 published dated 05.08.2019 *“If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its*

employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.”

(xii). the Hon'ble Supreme Court in para no. 130 of its order dated 13.04.2021 in Civil Appeal No. 8129 of 2019, Civil Appeal No. 1554 of 2021 and Civil Appeals Nos. 1550-1553 of 2021 has observed that *“that 2019 amendment to Section 31 of I&B Code is clarificatory and declaratory in nature and therefore will have a retrospective operation. As such, when the resolution plan is approved by NCLT, the claims, which are not part of the resolution plan, shall stand extinguished and the proceedings related thereto shall stand terminated”*. Y

(xiii). The Hon'ble Supreme Court in Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta and Ors (MANU/SC/1577/2019) observed that the Resolution Applicant should be aware of the claims and should not suddenly be burdened with undecided claims, stating as follows:

“67. For the same reason, the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6) of the Code, also militates against the rationale of Section 31 of the Code. A successful resolution applicant cannot suddenly be faced with “undecided” claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove.”

(xiv). The Hon'ble Supreme Court in Ghanshyam Mishra and Sons Pvt. Ltd. through authorized signatory v. Edelweiss Asset Reconstructions Company Ltd. through the Director (2021) SCC OnLine SC 313 has clearly held that no claims/

dues may be entertained after the approval of the Resolution Plan. The Hon'ble Supreme Court upheld the decisions in *Ultra Tech Nathdwara Cement Ltd v. Union of India* 2020 SCC OnLine Raj 1097 and *Electrosteels Limited v. State of Jharkhand* 2020 SCC On Line Jhar 454 and further held as follows:

“CONCLUSION:

95. *In the result, we answer the questions framed by us as under:*

- i. That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;*
- ii. 2019 amendment to Section 31 of the I&B Code is clarificatory and dilatory in nature and therefore will be effective from the date on which I & B Code has come into effect;*
- iii. Consequently, all the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date on which the Adjudicating Authority grants its approval under Section 31 could be continued.”.*

It is pertinent that Section 31 of the IBC code, 2016 provides that the Insolvency and Bankruptcy Code (Amendment) Act, 2019 no. 26 of 2019 published on 05.08.2019 “*If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of*

dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed, guarantors and other stakeholders involved in the resolution plan.”

whereas Resolution plan “Any and all rights and entitlements of the Governmental Authorities including but not limited to the Central Government, the State Governments any regulatory of local authority or body or any agency or instrumentality thereof (or any other party or entity (under any agreement, lease, license, approval, consent or permission) whether admitted or not, due or contingent, asserted or unasserted, crystallized or uncrystallised, known or unknown, disputed or undisputed, in relation to any period prior to the Plan Effective Date, shall be deemed to be permanently extinguished by virtue of the order of the NCLT approving this Resolution Plan and the Company or the Applicant shall at no point of time, directly or indirectly, have any obligation liability or duty in relation thereto”.

Although, the benefit of input tax credit had arisen consequent to introduction of GST as discussed supra is to be passed on to the homebuyers in whose case demands have been raised or advances have been received post-GST who are otherwise creditors to the Respondent, yet the position of law is that once a resolution plan is approved under the IBC, 2016 all claims and dues will stand extinguished even if they were not part of the Resolution Plan.

(xv). The investigation could not be completed and the claim could not be preferred before the date of approval of the Resolution Plan as the Respondent had not furnished all the required documents including vital documents such as the homebuyers list etc., required for concluding the investigation to ascertain as to whether there is any benefit of Input Tax credit that has accrued to the Respondent and if so the said benefit of Input Tax Credit has been passed on to the home buyers.

(xvi). Given the legality and the factual position of the matter, discussed above it can be concluded that the claims/benefit that could not be quantified because of the non-submission of the documents by the Respondent will stand extinguished and the Resolution Applicant cannot be held accountable for the actions of M/s. Puma Realtors Pvt. Ltd., including not passing on the benefit of ITC to the eligible recipient under Section 171 of the CGST Act, 2017 after the resolution plan.

Accordingly, the proceedings initiated vide NOI dated 15.01.2021 cannot be continued against the Respondent.

3. The Authority has carefully considered the Report of the DGAP and the other material placed on record and finds that the DGAP, in pursuance to this Authority's Interim Order dated 21.10.2019, has not investigated the matter pertaining to the project "Ireo Rise" which was executed by the Respondent (M/s Puma Realtors Pvt. Ltd.) in terms of Section 171 of the CGST Act, 2017 and the Rules made thereunder so as to determine whether there has been any profiteering by the Respondent therein.

4. The DGAP furnished his Report dated 28.10.2021 to this Authority, stating that the Respondent had provided some documents/information that were not enough to conclude as to whether the Respondent had benefited to the additional ITC in post-GST and if yes, then the said benefit of ITC has been passed on by him to the recipients by a commensurate reduction in price as per provision of Section 171 of the CGST Act 2017 and Rules made thereunder. Further, the DGAP had observed that a Corporate Insolvency Resolution Process (CIRP) was initiated against the Respondent under Insolvency and Bankruptcy Code 2016 (IBC) vide Order dated 17.10.2018 by the National Company Law Tribunal (NCLT), New Delhi. The Said CIRP had been concluded by NCLT vide its Order dated 01.06.2021 whereby the Resolution Plan filed by the M/s One City Infrastructure Pvt. Ltd was duly approved and subsequently implemented.

5. DGAP has further observed that as per provisions of Section 238 of the IBC, 2016 *"the provisions of this code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law:"* Although, it is argued that the provisions of Section 171 of the CGST Act, 2017 have been violated by the Respondent, yet the provisions of IBC, 2016 will nonetheless prevail.

6. This Authority finds that, Section 171 of the CGST Act, 2017 and the Rules made thereunder cast a three fold responsibility on this Authority viz. to ensure that there shall be no profiteering in case of reduction of tax rates or availability of ITC to suppliers, to determine profited amount and to ensure that the profited amount so determined is returned/passed on along with interest to each recipient of such supply.

7. Hence, this Authority had vide its Interim Order No. 14/2019 dated 21.10.2019 directed the DGAP to conduct a specific investigation. It was incumbent upon the DGAP, in terms of its role, duties and responsibilities, to submit a report in relation to

profiteering, if any, by exercising the powers given to it by the CGST Act, 2017 and the Rules made thereunder.

8. The DGAP has not conducted the investigation as directed by this Authority vide its Interim Order No. 14/2019 dated 21.10.2019. The Report dated 25.10.2021 of the DGAP is silent on the aspect of profiteering, if any, by the Respondent in his Project "Ireo Rise" and no investigation has been done in terms of Section 171 of the CGST Act, 2017 and the Rules made thereunder.

9. This Authority now, by this Order, under the provisions of Rule 133(4) of the CGST Rules, 2017 and Section 171 of CGST Act, 2017 reiterates its directions to the DGAP as made under Interim Order No. 14/2019 dated 21.10.2019 and requires the DGAP to discharge its responsibilities of investigating supplies made by the Respondent in his Project "Ireo Rise" under Section 171 of CGST Act, 2017 and CGST Rules, 2017.

10. The Authority shall, on receipt of such investigation report, take appropriate action as suitable, if any, on such report when submitted, in accordance with the provisions of Section 171 of CGST Act, 2017 and CGST Rules, 2017 and in consonance with other statutes and provisions of law prevalent and enforceable.

11. Because of the prevailing Covid 19 pandemic, the Hon'ble Supreme Court had by its Order dated 10.01.2022 passed in M.A. no. 21/2022 in M.A. no. 665/2021 in Suo Moto Writ Petition (C) No. 3 of 2020 ordered as under:-

(I). The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

(II). Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

(III). In case where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event, the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

(IV). It is further clarified that the period from 15.03.2020 till 28.02.2022 shall stand excluded in computing the period under Section 23(4) and 29A of the

Arbitration and Conciliation Act 1996, Section 12A of the Commercial Courts Act 2015 and provisos (b) and (c) of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period (s) of limitation for instituting proceedings over limits (within which the court or tribunal can condone delay) and termination of proceedings.

Hence this Order having been passed today falls within the limitation prescribed under Rule 133(1) of the CGST Rules, 2017.

12. A copy each of this order be supplied to the Applicant and the Respondent for necessary action. File be consigned after completion.

Sd-

(Amand Shah)

Technical Member & Chairman



Sd-

(Hitesh Shah)

Technical Member

Sd-

(Pramod Kumar Singh)

Technical Member

Certified Copy


(Dinesh Meena)

Secretary, NAA

File No. 22011/NAA/PUMA/40/2021/8025-8028

Dated: 04.08.2022

Copy To:-

1. M/s Puma Realtors Pvt. Ltd., A-11, 1st Floor, Neeti Bagh, New Delhi South Delhi-110049.
2. Director General Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.
3. NAA Website.
4. Guard File.