



**BEFORE THE COMPETITION COMMISSION OF INDIA**

**(AUTHORITY UNDER SECTION 171 OF THE CENTRAL GOODS & SERVICES TAX ACT, 2017)**

Case No. : 06/2024  
Date of Institution : 12.02.2020  
Date of Order : 10.07.2024

**In the matter of:**

1. Principal Commissioner, Medchal Commissionerate, 11-4-649/B, Lakdi ka Pool, Hyderabad.
2. Director General of Anti-Profiteering, Central Board of Indirect Taxes & Customs, 2<sup>nd</sup> Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, Gole Market, New Delhi-110001.

Applicants

**Versus**

M/s Cinema Ventures Pvt. Ltd., Leonia Holistic Destination, Ivy Road, Shamirpet-500078.

Respondent

**Coram:-**

1. Smt. Ravneet Kaur, Chairperson
2. Sh. Anil Agrawal, Member
3. Ms. Sweta Kakkad, Member
4. Sh. Deepak Anurag, Member

**Present:-**

1. None for the Applicant.
2. None for the Respondent.

## ORDER

1. The present Report dated 07.02.2020 has been received from the Director-General of Anti-Profiteering (**DGAP**) on 12.02.2020 after a detailed investigation under Rule 129 (6) of the Central Goods & Service Tax (**CGST**) Rules, 2017. The brief facts of the case and findings of investigation conducted by the DGAP are as under:-
  - a) A reference has been received from the Standing Committee on Anti-profiteering on 28.06.2019, to conduct a detailed investigation in respect of an application filed by the Applicant under Rule 128 of the CGST Rules, 2017, alleging profiteering by the Respondent with respect to supply of "*Services by way of admission to exhibition of cinematograph films*" by not passing on the benefit of reduction in the GST rate on the aforesaid movie admission tickets from 28% to 18% w.e.f. 01.01.2019, vide Notification No. 27/2018-Central tax(Rate) dated 31.12.2018 and instead, increased the base price to maintain the same cum-tax selling price.
  - b) The Applicant has enclosed copies of tickets dated 31.12.2018 & 25.01.2019 along with his application form (APAF-1 form). Further, the Applicant has also submitted the price trend of ticket prices sold by the Respondent.
  - c) Accordingly, the DGAP decided to initiate an investigation and collect evidence necessary to determine whether the benefit of reduction in rate of tax had been passed on by the Respondent to the recipients in respect of supply of service by the Respondent.
  - d) The DGAP issued a Notice on 09.07.2019 under Rule 129 of the CGST Rules, 2017 to the Respondent calling upon the Respondent to reply as to whether he admitted that the benefit of reduction in rate of tax had not been passed on to the recipients by way of commensurate reduction in prices and if so, to *suo moto* determine the quantum thereof and indicate the same in his

reply to the Notice as well as to furnish all supporting documents. Vide the said Notice, the Respondent was also given an opportunity to inspect the non-confidential evidences/information during 17.07.2019 to 19.07.2019, which were furnished by the Applicant, which he availed on 25.09.2019. Vide e-mail dated 30.12.2019, the Applicant was also afforded an opportunity to inspect the non-confidential documents/reply during 06.01.2020 to 07.01.2020, which were furnished by the Respondent. However, the Applicant did not avail the opportunity.

- e) The period covered by the current investigation was from 01.01.2019 to 30.06.2019.
- f) The main issues to be looked into were:-
  - (i) whether the rate of GST on the *“Services by way of admission to exhibition of cinematography films where price of admission ticket was above one hundred rupees”* was reduced from 28% to 18% w.e.f. 01.01.2019 and *“Services by way of admission exhibition of cinematograph films where price of admission ticket was one hundred rupees or less”* was reduced from 18% to 12% w.e.f. 01.01.2019, if so,
  - (ii) whether the benefit of such reduction in the rate of GST was passed on by the Respondent to the recipients, in terms of Section 171 of the CGST Act, 2017.
- g) There was basically one class of tickets in the Respondent's Multiplex, namely, 'Platinum'. For the purpose of determination of profiteering, the number of tickets sold during the period 01.12.2018 to 31.12.2018 (pre-GST rate reduction) was taken and an average base price (after discount) was obtained on dividing the total taxable value by total number of tickets sold during this period. The average commensurate selling price of the ticket was compared with the actual selling price of the tickets sold during post-GST rate reduction i.e. on or after 01.01.2019 as illustrated in the table-'A' below:-

**Table-'A' (Amount in Rupees)**

Sl. No.	Description	Factors	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (From 01.01.2019)	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (From 01.01.2019)
1.	Multiplex Name	A	Gold Spot		Leonia	
2.	Ticket Category	B	Platinum		Platinum	
3.	Ticket MRP	C	150/-	150/-	150/-	150/-
4.	Total No. of tickets sold	D	82,011		18,423	
5.	Total taxable value (after Discount, if any)	E	96,10,049/-		21,58,807/-	
6.	Average base price (without GST)	F=(E/D)	117.18/-		117.18/-	
7.	GST Rate	G	28%	18%	28%	18%
8.	Actual Selling price (post rate reduction) (including GST)	H=128% of F	150/-		150/-	
9.	Commensurate Selling price (post Rate reduction) (including GST)	I=118% of F		138.27/-		138.27/-
10.	Post Reduction Session ID & date	J		63028 dated 14.01.2019		23811 dated 04.02.2019
11.	Total No. of Tickets sold in above Session ID	K		250		27
12.	Total Tickets Value (including GST)	L		37,500		4,050/-
13.	Actual Selling price (post rate reduction) (including GST)	M=L/K		150/-		150/-
14.	Excess amount charged of Profiteering	N=M-I		11.73/-		11.73/-
15.	Total Profiteering	O= K*N	2,932.50/-			316.71/-

From the above table 'A', it is clear that in the said instance, the Respondent did not reduce the selling price commensurately of the "Movie Tickets", when the GST rate was reduced from 28% to 18% w.e.f. 01.01.2019, vide Notification No.27/2018 Central Tax (Rate) dated 31.12.2018 and hence profited an amount of Rs.11.73/- per ticket and thus the benefit of reduction in GST rate was not passed on to the recipients by way of commensurate reduction in price, in terms of Section 171 of the CGST Act, 2017. On the basis of above calculation as illustrated in table 'A' above, profiteering in case of all the tickets of the Respondent has also been arrived in similar way which is furnished in table-'B' below:-

**Table-'B' (Amount in Rupees)**

Sl. No.	Description	Factors	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (01.01.2019 to 05.02.2019)	Post Rate Reduction (06.02.2019 to 30.06.2019)	Pre Rate Reduction (01.12.2018 to 31.12.2018)	Post Rate Reduction (01.01.2019 to 05.02.2019)	Post Rate Reduction (06.02.2019 to 30.06.2019)
1.	Multiplex Name & Category	A	Gold Spot (Platinum)			Leonia (Platinum)		
2.	Ticket MRP	B	150/-	150/-	138/-	150/-	150/-	138/-
3.	Total No. of tickets sold	C	82,011	91,963	2,78,848	18,423	27,309	66,443
4.	Total taxable value (after Discount, if any)	D	96,10,049	1,16,90,211	3,26,02,327	21,58,807	34,71,470	77,70,864
5.	Average base price (without GST)	E=D/C	117.18/-	127.12/-	116.92/-	117.18/-	127.12/-	116.96/-
6.	GST Rate	F	28%	18%	18%	28%	18%	18%
7.	Actual Selling price (post rate reduction) (including GST)	G=E*(1+F)	150/-	150/-	138/-	150/-	150/-	138/-
8.	Commensurate Selling price (post Rate reduction) (including GST)	H=118 % of E		138.27/-	138.27/-		138.27/-	138.27/-
9.	Excess amount charged or Profiteering per Ticket	I=G-H		11.73/-	-		11.73/-	-
10.	Total Profiteering	J=C*I		10,78,726	-		3,20,335	-
11.	Total Profiteering (Both Theater) (K)		<b>Rs. 13,99,061/-</b>					

The Respondent has increased the base prices during the period from 01.01.2019 to 05.02.2019 to maintain the same selling price (or MRP) resulting in the customers to pay the same price for the tickets which they were paying prior to reduction in rate of tax from 28% to 18% w.e.f. 01.01.2019. Hence, the Respondent denied the benefit of reduction in rate of tax to his customers. However, w.e.f. 06.02.2019, the Respondent has revised its selling price from Rs. 150/- to Rs. 138/- which commensurates to passing of the benefit of reduction in rate of tax from 28% to 18%.

- h) The DGAP has concluded that the allegation of profiteering by way of increasing the base prices of the tickets (Services) and by way of not reducing the selling prices of the tickets (Services) commensurately, despite the reduction in GST rate on "Services by way of admission to exhibition of cinematography films where price of admission ticket was above one hundred rupees" from 28% to 18% w.e.f. 01.01.2019, was not passed on to the recipients appeared to be correct. The DGAP has stated that the total amount of profiteering covering the period from 01.01.2019

to 30.06.2019, was Rs. 13,99,061/-.

2. The above Report of the DGAP dated 07.02.2020 was considered by the erstwhile NAA and it was decided to allow the Respondent and the Applicant to file their consolidated written submissions in respect of the above Report of the DGAP. Notice dated 14.02.2020 was also issued to the Respondent directing him to explain why the above Report furnished by the DGAP should not be accepted and his liability for violation of the provisions of Section 171 of the Act should not be fixed. The Respondent vide his letter dated 29.01.2021 has filed his written submissions against the DGAP's Report dated 07.02.2020. Summary of the Written Submissions is provided as under:-

- a) The Applicant has no *locus standi* to make the application alleging profiteering by the Respondent under Section 171 of CGST Act, 2017.
- b) The Respondent has abided the provision of Section 171 in passing on the benefit of rate reduction to the recipients by way of commensurate reduction in price of tickets.
- c) The price of movie tickets are market driven and are controlled dynamically on certain factor i.e. class of ticket, rating of movie, location, movie type, weekdays/weekends, statutory regulations applicable to such business.
- d) The Respondent reduced tax being charged from 28% to 18% w.e.f. 01.01.2019. The ticket which was purchased by the Applicant, clearly spelt out the net ticket price as well as GST (CGST as well as SGST) of 18% being charged on the net price.
- e) The Respondent was incurring loss for an amount of Rs. 199.97 cr while in operation for the F.Y. 2017-18 and similarly, in the F.Y. 2018-2019 he was again in loss to a similar tune. Therefore, w.e.f. 01.01.2019 when taxes were reduced, the Respondent had to increase his base price on tickets from Rs. 117.19/- to Rs. 127.12/- as per market dynamics.
- f) The Regulations of the land where Respondent was stationed were such that its gross receipt against ticket was capped to Rs.

150/-. Even though the Respondent was continuously incurring losses he couldn't further increase price of tickets.

- g) That w.e.f. 05.02.2019, even though the Respondent was incurring losses he had to reduce base price of tickets from Rs. 127.12/- to Rs. 116.95/- due to peer market pressure on such bussiness.
  - h) If the Respondent would not have increased the base price of the ticket and charged tax at the reduced rate of 18% for one week and would thereafter increase the base price and charged tax @ 18% on the said price, then it would not have amounted to evasion.
  - i) The inward price of the cinematographic film was also increased by the distributor in the instant case therefore as the inward price increased the outward supply price also increased during the instant period.
  - j) Penalty cannot be imposed upon the Respondent as decided in the judgment passed by erstwhile NAA in the matter of M/s. Sattva Developers Pvt. Ltd. Case No 71/2020 dated 05.11.2020.
3. A supplementary Report was sought from the DGAP on the above submissions of the Respondent under Rule 133(2A) of the Rules. The DGAP filed his clarifications vide letter dated 24.05.2022, wherein, it was stated that:-
- a) For the contention raised by the Respondent that the Applicant has no *locus standi* to make the application alleging profiteering by the Respondent under Section 171 of CGST Act, 2017, the DGAP has clarified that Rule 128 of the CGST Rules, 2017 read with Section 171 of the CGST Act, 2017 endows a right to the complainant/applicant to make a complaint to the statutory authority in case benefit of rate reduction was not passed on by the supplier by way of commensurate reduction of prices.
  - b) For the contention raised by the Respondent that he has abided the provision of Section 171 in passing on the benefit of rate reduction to the recipient by way of commensurate reduction in

prices, the DGAP clarified that he has conducted a thorough investigation in terms of Section 171 on the basis of documents and information submitted by the Respondent and submitted the report dated 07.02.2020 under Rule 129(6) of the CGST Rules, 2017, wherein it was concluded that Respondent has realised an additional amount i.e. profiteering to the tune of Rs. 13,99,061/-.

- c) For the contention raised by the Respondent that the price of movie ticket are market driven and are controlled dynamically on certain factor i.e. class of ticket, rating of movie, location, movie type, weekdays/weekends, statutory regulations applicable to such business, the DGAP stated that this contention raised by the Respondent had been covered in para 17 of its report dated 07.02.2020.
- d) For the averment made by the Respondent that he had reduced tax being charged from 28% to 18% w.e.f. 01.01.2019 and the ticket which was purchased by the Applicant clearly spelt out the net ticket price as well as GST (CGST as well as SGST) of 18% being charged on the net price, the DGAP stated that as per Section 171 of the Act, benefit of GST rate reduction shall be passed on to the recipient of service by way of commensurate reduction in prices and such reduction can obviously be in money terms only, so that the final price payable by a consumer gets reduced. Keeping the same selling price by increasing the base price and charging the reduced rate of tax cannot be termed as complying with the provisions of Section 171 of the Act.
- e) For the contention raised by the Respondent that they are a loss making company, the DGAP has submitted that this contention had already been countered in Para 16 of its report dated 07.02.2020.
- f) The Respondent himself admitted that he had to increase the base price of tickets from Rs. 117.19/- to Rs. 127.12/-, which resulted in denial of benefit of reduction in rate of tax and had been profiteered by the Respondent.



g) It is evident that the provision of Section 171 of the CGST Act, 2017 has obligated the Respondent to reduce the prices commensurately and pass on the benefit of reduction in rate of tax to the consumer. Thus, the intention of the law is achieved.

4. The Commission granted hearing to the parties on 04.04.2024 and 27.06.2024. However, the Respondent vide reply emails dated 02.04.2024, 06.06.2024 and 25.06.2024 stated that the National Company Law Tribunal (NCLT) Mumbai vide its order dated 14.07.2023 has ordered commencement of Corporate Insolvency Resolution Process (CIRP) against the Respondent by appointing Interim Resolution Professional (IRP) and also stated that *"in view of suspended powers of the Board of Directors of the Company, you are requested to approach the Resolution Professional (Sh. Ashok Kumar Gulla) regarding any claim against the Company"*.
5. This Commission has carefully perused all the submissions and the documents placed on record, and the arguments advanced by the Respondent. The Commission needs to determine as to whether there was any reduction in the GST rate and whether the benefit of reduction in the rate of tax was passed on or not to the recipients as provided under Section 171 of the CGST Act, 2017.

Section 171 of the CGST Act provides as under:-

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

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

*(3). The Authority referred to in sub-section (2) shall exercise such powers and discharge such functions as may be prescribed.*

(3A) Where the Authority referred to in sub-section (2) after holding examination as required under the said sub-section comes to the conclusion that any registered person has profiteered under sub-section (1), such person shall be liable to pay penalty equivalent to ten percent of the amount so profiteered:

*PROVIDED that no penalty shall be leviable if the profiteered amount is deposited within thirty days of the date of passing of the Order by the Authority.*

*Explanation:- For the purpose of this section, the expression "profiteered" shall mean the amount determined on account of not passing the benefit of reduction in rate of tax on supply of goods or services or both or the benefit of input tax credit to the recipient by way of commensurate reduction in the price of the goods or services of both."*

6. This Commission further finds that the Central and the State Governments had reduced the rates of GST on "*Services by way of admission to exhibition of cinematograph films where the price of admission ticket was above one hundred rupees*" from 28% to 18% w.e.f. 01.01.2019, vide Notification No. 27/2018- Central Tax (Rate) dated 31.12.2018, the benefit of which was required to be passed on to the recipients by the Respondent as per the provisions of Section 171 of the above Act.
7. The Commission finds that, one of the contentions of the Respondent was that the Applicant No. 1 has no *locus standi* to make the application alleging profiteering by the Respondent under Section 171 of CGST Act, 2017. In this regard, the Commission holds that it has been entrusted with the task of ensuring that the benefit of reduction in rate of tax or availability of ITC must be passed on by a registered supplier to his recipients. The Authority finds that, under Rule 129 (2) of the above Rules, the DGAP is required to investigate a complaint filed by an interested party/person whether a registered person has passed on the benefit of tax reduction or ITC to the recipients or not and hence during the course of investigation if it comes to the notice that the benefit has not been passed on to any recipient, including those who

had not filed complaint against the registered person, the DGAP is legally bound to investigate the same and bring the facts before this Commission for determination of those benefits to the eligible recipients.

It is also clear that the above benefit has accrued to the Respondent due to the concession given by the Government out of the public exchequer, therefore, the DGAP is bound to investigate to ascertain whether the Respondent has misappropriated the benefit of rate reduction which he was required to pass on to the buyers. The DGAP cannot overlook commission of an offence which has occurred under Section 171 (1) of the above Act once it has come to its notice during the course of the investigation and hence the above contentions of the Respondent are not correct.

8. The Respondent further contended that he has abided by the provisions of Section 171 in passing on the benefit of rate reduction to the recipients by way of commensurate reduction in prices. In this regard, the Commission finds that the DGAP has conducted a thorough investigation in terms of Section 171 of the Act on the basis of documents and information submitted by the Respondent and submitted its report dated 07.02.2020 under Rule 129(6) of the CGST Rules, 2017, wherein it was concluded by the DGAP that Respondent has realised an additional amount i.e. profiteering to the tune of Rs. 13,99,061/-.
9. The Respondent also averred that the price of movie tickets are market driven and are controlled dynamically on certain factors i.e. class of ticket, rating of movie, location, movie type, weekdays/weekends, statutory regulations applicable to such business. In this regard, the Commission finds that there is one class of tickets in the Respondent's Multiplex, namely, 'Platinum'. Upon perusal of table 'A' of the DGAP's report it is clear that the Respondent did not reduce the selling price of the movie tickets commensurately, when the GST rate was reduced from 28% to 18% w.e.f. 01.01.2019, vide Notification No.27/2018 Central Tax (Rate) dated 31.12.2018 and hence profiteered an amount of Rs.11.73/- per ticket. Thus the benefit of reduction in GST rate was

not passed on to the recipients by way of commensurate reduction in price, in terms of Section 171 of the CGST Act, 2017.

10. The Respondent also contended that he had reduced tax being charged from 28% to 18% w.e.f. 01.01.2019 and that the ticket which was purchased by the Applicant clearly spelt out the net ticket price as well as GST (CGST as well as SGST) of 18% being charged on the net price. In this regard the Commission finds that as per Section 171 of the Act, benefit of GST rate reduction shall be passed on to the recipients of service by way of commensurate reduction in prices and such reduction can obviously be in monetary terms only, so that the final price payable by a consumer gets reduced. Keeping the same selling price by increasing the base price and charging the reduced rate of tax cannot be termed as complying with the provisions of Section 171 of the Act. Therefore, the contention raised by the Respondent is not tenable and denied.
11. The Respondent averred that he was incurring loss during F.Y. 2017-18 and F.Y. 2018-2019. Therefore, w.e.f. 01.01.2019 when taxes were reduced, the Respondent had to increase base price of his movie tickets from Rs. 117.19/- to Rs. 127.12/-. In this regard, the Commission finds that the contention of the Respondent that they are a loss making company cannot form the basis for not passing on the benefit of subsequent GST rate reduction w.e.f. 01.01.2019. Further, the Respondent in his submissions himself has admitted that he has increased the base price of his movie tickets from Rs. 117.19/- to Rs. 127.12/- and has not passed the benefit of rate reduction to the ticket buyers and thus contravened the provisions of Section 171 of the Act. Therefore, the contention of the Respondent is not tenable.
12. The Respondent also contended that w.e.f. 05.02.2019, even though the Respondent was incurring losses he had to reduce base price of tickets from Rs. 127.12/- to Rs. 116.95/- due to peer market pressure on such business. In this regard, the Commission finds that the provision of Section 171 of the CGST Act, 2017 has obligated the Respondent to reduce the prices commensurately and pass on the benefit of reduction in rate of tax to the consumer.

13. The Respondent has prayed that penalty cannot be imposed upon the Respondent as decided in the judgment passed by erstwhile NAA in the matter of M/s. Sattva Developers Pvt. Ltd. Case No 71/2020 dated 05.11.2020 vide which the erstwhile NAA stated that "*vide Section 112 of the Finance Act, 2019 specific penalty provisions have been added for violation of provisions of Section 171(1) which have come in to force w.e.f. 01.01.2020, by inserting Section 171(3A). Since no penalty provisions were in existence between 01.07.2017 to 31.08.2018, the penalty under Section 171 (3A) cannot be imposed*". In this regard, the Commission finds that as Section 112 of the Finance Act, 2019 was not in operation during the period from 01.01.2019 to 05.02.2019 when the Respondent had committed the above violation, and have come in to force w.e.f. 01.01.2020, therefore, the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively.

14. The Respondent vide his email dated 02.04.2024 has stated that "*moratorium on proceedings is imposed by NCLT vide order dated 14.07.2023*". The Commission notes that Section 14 of the Insolvency and Bankruptcy Code (IBC) *inter alia* provides as under:-

**Section 14. Moratorium**

*"(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-*

*(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*

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*(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process: Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."*

The Hon'ble Supreme Court in case of **S.V Kondaskar vs. VM Deshpande and Anr. (1972) 1 SCC 438**, *inter alia* has held that:-

*"we have not been shown any principle on which the liquidation court should be vested with the power to stop assessment proceedings for determining the amount of tax payable by the company which is being wound up"*

Further, the Hon'ble Supreme Court in the case of **Sundaresh Bhatt, Liquidator of ABG Shipyard vs. Central Board of Indirect Taxes (2023) 1 SCC 472**, *inter alia* has held that:-

*"48. From the above discussion, we hold that the respondent could only initiate assessment or reassessment of the duties and other levies. They cannot transgress such boundary and proceed to initiate recovery in violation of Sections 14 or 33(5) of the IBC."*

In view of the aforesaid settled position of law and the moratorium under Section 14 of IBC, 2016 imposed by the NCLT, the Commission finds that there is no bar on initiating proceedings or proceeding to assess the amount payable by the Respondent for violation of Section 171(1), CGST Act, 2017. However, the proceedings to recover any amount from the Respondent cannot be initiated.

15. Therefore, the Commission finds that, as per the details and calculations in Tables 'A' & 'B' above, there was one class of tickets namely 'Platinum' in the Respondent's Multiplexes 'Gold Spot' and 'Leonia'. The Respondent had profited by way of increasing the base prices of the tickets (Services) and by not reducing the selling price of the tickets (Services) commensurately, despite reduction in GST rate on "*Services by way of admission to exhibition of cinematograph films*" where price of ticket was one hundred rupees or above, from 28% to 18% w.e.f. 01.01.2019. It is evident from Table 'B', that the base prices of the admission tickets were indeed increased during the period from 01.01.2019 to 05.02.2019 to maintain the same selling price (or MRP), as a result of which the benefit of reduction in GST rate was not passed on to the recipients. Hence, the Respondent

denied the benefit of reduction in rate of tax to his customers. However, w.e.f. 06.02.2019, the Respondent had revised its selling price of tickets from Rs. 150/- to Rs. 138/- which depicts commensurate passing on of the benefit of reduction in rate of tax from 28% to 18%.

The Commission finds that as is evident from table 'B' the amount of profiteering was to the tune of Rs. 10,78,726/- in respect of 'Platinum' class tickets sold by the Respondent in multiplex 'Gold Spot' and Rs. 3,20,335/- in respect of 'Platinum' class tickets sold in multiplex 'Leonia'. Therefore, the total amount of profiteering during the period of 01.01.2019 to 05.02.2019 amounted to Rs. 13,99,061/- (10,78,726 + 3,20,335).

16. This Commission, based on the facts discussed above, finds that the Respondent had resorted to profiteering by way of either increasing the base price of the service while maintaining the same selling price or by way of not reducing the selling price of the service commensurately, despite a reduction in GST rate, on "*Services by way of admission to exhibition of cinematograph films where price of admission ticket was above one hundred rupees*" from 28% to 18% w.e.f. 01.01.2019 upto 05.02.2019. On this account, the Respondent profited to the tune of **Rs. 13,99,061/- (including GST)** from the recipients. Thus the profited amount is determined as **Rs. 13,99,061/-** as per the provisions of Rule 133 (1) of the CGST Rules, 2017.
17. Further, as per the provisions of Rule 133 (3) (a) of the CGST Rules, 2017, the Respondent is directed to reduce the prices of cinema tickets, keeping in view the reduction in the rate of tax so that the benefit would be passed on to the recipients. However, as observed by the DGAP during its investigation that w.e.f. 06.02.2019, the Respondent had revised the selling price of tickets from Rs. 150/- to Rs. 138/- which depicts commensurate passing on of the benefit of reduction in rate of tax from 28% to 18%.
18. The Respondent is directed to deposit the profited amount of **Rs. 13,99,061/-** along with the interest, which is to be calculated @ 18% from the date, when the above amount was collected by him, from the recipients, till the above amount is deposited. Since the recipients, in

this case, are not identifiable, the Respondent is directed to deposit the amount of profiteering in two equal parts, of Rs. 6,99,530.5/- in the Central Consumer Welfare Fund and Rs. 6,99,530.5/- in the Telangana State Consumer Welfare Fund as per the provisions of Rule 133 (3) (c) of the CGST Rules, 2017, along with interest @18%.

19. It is also evident from the above narration of facts that the Respondent has denied benefit of rate reduction to his customers/recipients in contravention of the provisions of Section 171 (1) of the CGST Act, 2017 and has committed an offence under Section 171 (3A) of the above Act. However, perusal of the provisions of Section 171 (3A), under which liability for penalty arises for the above violation, shows that it has been inserted in the CGST Act, 2017 w.e.f. 01.01.2020 vide Section 112 of the Finance Act, 2019 and it was not in operation during the period from 01.01.2019 to 05.02.2019 when the Respondent had committed the above violation. Hence, the penalty prescribed under Section 171 (3A) cannot be imposed on the Respondent retrospectively for the said period.

20. As the case is under insolvency proceedings under IBC, the Commission directs the DGAP to file its claim in the matter for necessary recovery.

21. Further, the Commission, as per Rule 136 of the CGST Rules 2017, directs the jurisdictional Commissioners of CGST/SGST Telangana to monitor this Order under the supervision of the DGAP.

22. A copy of this order be supplied to all the interested parties free of cost and file of the case be consigned after completion.

S/d  
(Deepak Anurag)  
Member

S/d  
(Sweta Kakkad)  
Member

S/d  
(Anil Agrawal)  
Member

S/d  
(Ravneet Kaur)  
Chairperson

Certified copy

(Secretary, CCI)

File No. 22011/138/Cinema Ventures (Hyd)/2020 1586-91

Date: 10.07.2024



Copy To:-

1. M/s Cinema Ventures Pvt. Ltd., Leonia Holistic Destination, Ivy Road, Shamirpet-500078.
2. Principal Commissioner, Medchal CGST Commissionerate, 11-4-649/B, Lakdi Ka Pool, Hyderabad.
3. Directorate General of Anti-Profiteering, 2nd Floor, Bhai Vir Singh Sahitya Sadan, Bhai Vir Singh Marg, New Delhi-110001.
4. The Chief Commissioner of Central Goods & Service Tax, Hyderabad Zone GST Bhavan, I.B.Stadium Road, Basheer Bagh, Hyderabad, Telangana-500 004.
5. The Commissioner of Commercial Taxes Department, C.T Complex, Nampally, Hyderabad, Telangana-500 001.
6. Guard File.