

Price Monitoring and Control Measures under GST*

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India implemented Goods and Services Tax (GST) from July 1, 2017. An aspect of this critical and long-awaited indirect tax reform which has not received enough attention in the public discourse is its price impact. In fact, concerns about the inflationary impact of value added tax (VAT), a variant of GST, was a characteristic feature of switch over to this tax in almost all the countries (Tait 1988). As a result, both in the run up to and in the aftermath of VAT introduction, most countries have adopted extra-ordinary interventionist policies not only to limit price revision but also to prevent any unjustified increase in prices by the businesses. Some of the important price intervention measures implemented across the world are (a) price freeze or control (in Belgium, Netherlands and Korea), (b) price monitoring (in Germany and Ireland), (c) freeze on profit margins (in Netherlands and Ireland), (d) publicity campaign (in Korea, New Zealand and United Kingdom), (e) enactment of counter inflation laws (in United Kingdom), and (f) reduction of other taxes and subsidy payments to essential commodities (in Denmark) (Tait 1988).

Contrary to this world-wide experience, when VAT was introduced in India starting from April 1, 2005 no credible price monitoring and control mechanism was put in place by the government to protect the interest of the consumers. Instead, the Empowered Committee

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of State Finance Ministers (ECSFM)¹ publicised that VAT would have no adverse impact on prices because the VAT system, by way of effectively eliminating the cascading effects of commodity taxation, helps to reduce the price level. Also, the changes brought out in the tax rate structure of the commodities by the VAT system involve a reduction in the rates of many commodities comparing the earlier sales tax regime.

In reality, studies have found that the introduction of VAT has resulted in unexplained increase in the prices. A study conducted by Comptroller and Auditor General (CAG) of India covering a basket of goods supplied by 13 manufacturers in the first three months of introduction of VAT revealed that none of them reduced the maximum retail price despite sharp decline in the tax rates with respect to their products (CAG 2010). As a result, benefits worth of Rs. 40 crore was “illegally” retained by these manufacturers and the dealers across the VAT chain, which, otherwise, would have benefited the consumers by way of lower prices. According to CAG, this situation has occurred due to the absence of a system to monitor the impact of VAT on prices and to ensure that the benefits of reduction in tax rates and tax cascading were passed on to the consumers. The National Council for Applied Economic Research (NCAER) in its analysis found that the introduction of VAT has not resulted in the expected decrease in commodity prices.² In an analysis of the changes in the retail prices of 37 groups of commodities in Chennai city after the introduction of VAT in Tamil Nadu from January 1, 2007, Sthanumoorthy (2009) found that (a) the prices of majority of the commodities that were subject to significant reduction in tax rates under VAT regime have not come down, (b) in case of commodities that were taxed at a higher rate under VAT system, the prices of majority of them have increased in the immediate post-VAT

¹ The ECSFM was set up by the Government of India (GoI) on July 2000 to facilitate indirect tax reforms in coordination with the state governments. Among others, the members of ECSFM include the finance ministers of all the state governments and union territories.

² See ‘NCAER: VAT yet to lower some prices’ available at http://www.business-standard.com/article/economy-policy/ncaer-vat-yet-to-lower-some-prices-105050201034_1.html, accessed on February 5, 2017.

period, and (c) the prices of commodities whose tax rates were similar under the previous sales tax regime and new VAT regime have witnessed unwarranted price hike after the introduction of VAT.

Anti-profiteering clause

In this context, the inclusion of an “Anti-profiteering” clause in the GST Law namely Central Goods and Services Tax Act, 2017 (CGST Act) assumes significance. The clause, included under Section 171 of the CGST Act, states that “The Central Government may, on recommendations of the Council, by notification, constitute an Authority, or empower an existing Authority constituted under any law for the time being in force, to examine whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him (GoI 2017).” And, the authority “shall exercise such powers and discharge such functions as may be prescribed.” The aim of the anti-profiteering clause is to ensure that the businesses pass on to the consumers any tax rate cuts and the cost savings³ resulting from the adoption of GST.

To operationalise the anti-profiteering clause, the GST council has formulated the Anti-Profiteering Rules (APR) (**see Appendix for more details**). It prescribes a three-stage anti-profiteering administrative structure and a three-stage mechanism to deal with consumer complaints about profiteering practices by the businesses in the wake of GST

³ GST can lead to an overall decline in prices due to the reduction in the (tax) cost of doing business resulting from the reduction/removal of cascading effect of taxes (Rao 2016). This is because the GST system allows business to deduct the tax paid on their inputs/purchases from the tax payable on their output. However, this can happen only if the businesses pass on to the consumers the benefit of the cost reduction arising out of the input tax credit available to them. In the existing commodity tax system in India tax cascading occurs due to (a) levy of multiple taxes at the central and state levels, (b) absence of set-off for excise duty and service taxes paid (input tax credit) while paying the state value added tax and (c) absence of a provision for availing tax credit for taxes paid in one state in another state (GoI 2015).

implementation.⁴ The administrative structure comprises of a nine-member standing committee of the GST council, Director General of Anti-profiteering/Safeguards (DGA/S), and a five-member National Anti-Profiteering Authority (NAA). The standing committee will consist of centre and state tax officials and state-level screening committees.⁵ The NAA will be chaired by a retired High Court judge or a member of the Indian Legal Service who has served at least three years at the level of Additional Secretary or above at the central government level. The other four members of NAA will be joint secretary-level commissioners in central excise and service tax either at the centre or states. The NAA will function for two years from the date of its inception.

The three-stage compliant redressal mechanism works as follows: In the first stage, the standing committee receives the written complaints of profiteering practices and verifies the accuracy and adequacy of the evidence provided in the complaints. After reviewing the *prima-facie* evidence to support the complaints, the committee forwards them to DGA/S for a detailed investigation.⁶ The second stage involves investigation of the complaints forwarded to the DGA/S, which can take up to three months. In doing so, the DGA/S could examine the balance sheet of companies to see if the price benefits of GST are passed on to consumers. In the final stage, the DGA/S submits the investigation report to the NAA, which will have three months to give its verdict. The entire procedure, from investigation to verdict, could take up to nine months. If a company is found to have not passed on the benefits of lower taxes and input tax credit to consumers (or) increased the prices not in line with tax incidence, then the

⁴ The details of various aspects of the Anti-Profiteering Rules were obtained from the following sources: 'GST: Two-year sunset for anti-profiteering', *Business Standard*, June 19, 2017; 'GST: Anti-profiteering authority can deregister firms', *Business Standard*, June 20, 2017; 'GST anti-profiteering agency for passing on gains to buyers', *The Times of India*, Jun 19, 2017; 'GST: Anti-profiteering panel to levy penalty, to have sunset date of two years', *Firstpost*, Jun 19, 2017; 'Anti-profiteering body under GST can take suo motu action', *The Hindu*, June 20, 2017.

⁵ The screening committees will have one central government official nominated by the chief commissioner and one state government official nominated by the commissioner.

⁶ It is to be noted that before the standing committee takes up complaints for consideration, the state level screening committees would examine them and give their recommendations to the standing committee.

NAA could initiate any of the following actions: (a) cancel the registration of the company, (b) impose a penalty on the company, (c) order a reduction in prices; (d) order the company to refund the customer an amount equal to what it has earned by not passing on the price benefits from the time the GST took effect⁷ and (e) order further investigation or inquiry. Apart from the complaints received from the consumers, the NAA can also take suo motu actions.

Responses from the industry and commentators to the inclusion of the anti-profiteering clause in the GST Law have ranged from caution to disapproval (Mukhopadhyay 2017).⁸ Whereas some doubted the implementability of the provision on the grounds of lack of conceptual clarity and counter-productive interference in pricing decisions of companies, others felt that it would take India back to the era of socialist controls and harassment - in this case by the tax authorities - which make it difficult to do business. According to the critics, the best way to prevent businesses from making undue profits is to promote competition.

Australian Experience

Given this skepticism over anti-profiteering provision included in the GST Law, the question that emerges is: Is there any international experience with similar provision in the light of introduction of GST, which could throw light on the feasibility of implementing anti-profiteering and related measures in the Indian context with the primary goal of protecting consumers against improper price increases? Australia leads by example in this aspect. Australia introduced GST on July 1, 2000 to replace a number of existing indirect taxes including wholesale sales tax (ACCC 2000a). The GST implementation had a three year

⁷ In case a customer fails to claim his/her refunded amount or cannot be traced, the amount would be credited to the consumer welfare fund (CWF), which is managed by the Department of Consumer Affairs functioning under the Ministry of Consumer Affairs, Food & Public Distribution, Government of India. The amount under CWF is generally utilised for consumer awareness, strengthening of consumer movement and protection of consumer welfare.

⁸ Also see, 'GST transmission clause spooks industry', *The Hindu*, November 27, 2016; 'Introducing flaws', *Business Standard* (Editorial), March 6, 2017; 'Puzzling hurry', *Business Standard* (Editorial), June 20, 2017.

transition period from 1 July 1999 to 30 June 2002 during which the national competition regulator and consumer law champion namely Australian Competition and Consumer Commission (ACCC) was legally entrusted with the responsibility to oversee the pricing responses to the GST and to take action against businesses that adjust prices inconsistent with tax rate changes consequent to GST implementation (ACCC 2000a, 2001a).

Towards this end, the government has conferred many statutory responsibilities on the ACCC. Important among them are as follows (ACCC 2000a, 2001a, 2003): (i) formulate guidelines about what constitutes *price exploitation*; (ii) seek information from businesses to effectively monitor the price movements; (iii) issue notice to the businesses in case they indulge in price exploitation; (iv) seek penalties before the Federal Court for breach of price exploitation provision by businesses and individuals; (v) accept undertakings from the businesses which are enforceable in a court; (vi) investigate complaints and issues of public concern; and (vii) provide information to both businesses and public on price exploitation provisions.

Initiatives of ACCC

Armed with these statutory responsibilities, the ACCC undertook several measures to ensure that due to GST reforms consumers (a) would fully benefit from the reduction in tax rates and tax cascading, (b) do not experience greater than necessary increases in the prices and (c) are not subject to price exploitation by the businesses (ACCC 2001a). The major initiatives taken by ACCC are the following.

(a) Definition of price exploitation: To aid its task of overseeing the pricing responses to the GST, the ACCC defined that a business is considered to be engaged in price exploitation in the process of GST implementation if (i) it regulates the supply; (ii) it increases net profit margin by not reducing its prices adequately or by increasing prices by

more than the quantum of rise in taxes; (iii) it charges unreasonably high prices even after taking into account supplier costs, supply and demand conditions, and exceptional circumstances like a long-term non-reviewable price contracts entered into by businesses and price regulation prevalent in an industry (ACCC 2000a, 2000d).

(b) Information dissemination: A national telephone GST price hotline was established by ACCC to deal with consumer complaints and to facilitate business and consumer inquiries. Information and guidance were provided to the businesses and consumers through a website (ACCC 2000a). In addition, to enable businesses to comply with its guidelines, the ACCC issued information bulletins. For instance, a detailed compliance guide titled *Small Business Pricing Kit* was issued to assist the small businesses in identifying and passing on to the consumers the cost savings resulting from GST (ACCC 2000a).

To inform the consumers and businesses about the price changes due to GST, the ACCC widely distributed a publication titled *Everyday Shopping Guide with the GST*. The Guide contained information on expected price movements for 185 common consumer goods and services over the six months from the date of introduction of GST. This move was aimed at making consumers vigilant about any price exploitation practices and report the same to ACCC. For the businesses, the Guide provided assistance to set prices that were less likely to attract the attention of the ACCC (ACCC 2001a).

(c) Commitments from corporates: To check price exploitation, large corporates with turnovers exceeding \$100 million were invited to offer a *Public Compliance Commitment* (PCC) to ACCC on voluntary basis. The PCC required the CEO of a company to submit a signed commitment/statement indicating to the public that the company is committed to complying with the ACCC's price exploitation guidelines. In doing so, the company is required to provide appropriate information to ACCC in support of its commitment (ACCC

2000a). The primary objective of PCC is to provide an assurance to the consumers that businesses would not engage in price exploitation by taking undue advantage of the GST changes. However, it is to be noted that the offering of a PCC does not prevent a company from enforcement action by ACCC in case the company provides misleading information to the ACCC (ACCC 2000b).

(d) Retail price surveys: The ACCC collected prices from retail outlets and super markets for a range of goods and services both before and after the introduction of GST by way of specially commissioned monthly and quarterly surveys of retail prices (ACCC 2001a). The main purpose of this exercise was to collect information on price changes thereby identify areas of potential price exploitation including the possibility of increase in the prices of goods and services in anticipation of the introduction of the GST. Price details were collected in all the eight capital cities and 100 towns across Australia (ACCC 2000c). In the monthly surveys called *Monthly Supermarket Survey*, prices of a ‘basket’ of 100 branded items sold in over 300 supermarkets in the country were collected. The quarterly survey, called *General Survey*, collected prices for about 700 goods and services commonly consumed by households (ACCC 2001a). This survey was conducted eight times during the GST transition period (ACCC 2000e, 2001b, Valadkhani and Layton 2004).⁹

Apart from retail price surveys, information gathered from other sources were used by the ACCC to study price changes and pricing behaviour. They include wholesale and consumer price indices, independent price databases, corporates who have signed PCC, and complaints registered by consumers in the national telephone hotline (ACCC 2000c).

(e) Ban on misleading pricing claims: To protect the consumers against unethical business practices, under the *Trade Practices Act 1974* (TPA 1974), businesses were

⁹ For more details including findings of some of the retail price surveys conducted by ACCC, see ACCC 2001b, 2000e.

prohibited from influencing consumer demand by making deceptive pricing claims.¹⁰ For instance, there were provisions in the Act to take correction action if a firm attempts to encourage consumers to make buying decisions before the implementation of GST by way of misleading advertisements such as claiming that the price would increase as a result of GST introduction though in reality it might come down. Another example of misrepresentation would include the claim by the businesses that the increase in the prices was due to an “anticipation” of the effect of tax rate changes due to GST introduction (ACCC 2000a, 2000d).

(f) *Dual ticketing norms:* In the context of transition to the GST, dual ticketing refers to a practice of displaying two prices; one applicable until the day before the introduction of GST in Australia, i.e. June 30, 2000 and the other applicable from the date of introduction of GST, i.e. July 1, 2000 (ACCC 2000a). The retailers were allowed to adopt dual ticketing subject to following broad conditions.

- (i) The consumers should not be misled. For instance, the retailer should not list a higher post-GST price for a product when there is no reasonable basis for the same.
- (ii) Only for a month (i.e. a month starting from June 1, 2000) before the introduction of GST, dual ticketing should be adopted.
- (iii) The pre-GST price has to be removed within a period of one month after the introduction of GST.
- (iv) While dual ticketing retailers should display the price of all the goods whose prices would change due to the introduction of GST.

¹⁰ The object of TPA 1974 was “to enhance the welfare of Australians through the promotion of competition and fair trading and provision for consumer protection.” From 1 January 2011, the TPA 1974 was replaced with the *Competition and Consumer Act 2010*. For details see <http://www.chartermarc.com.au/sites/default/files/media/documents/TradePractices%20act%201974.pdf> and <https://www.business.qld.gov.au/starting-business/licensing-obligations/legal-obligations/competition-consumer-act>, accessed on February 15, 2017.

(g) Price and profit margin rules: The ACCC devised a price rule as per which the prices charged by the businesses in response to the tax changes should not rise by more than 10 per cent in any event due to two reasons (ACCC 2000a, 2000d). First, the net cost of inputs/raw materials used by the businesses was not expected to increase beyond 10 per cent. Second, businesses were entitled to claim an input tax credit for the GST paid. However, businesses were allowed to adjust their prices to the extent of recouping the compliance costs associated with the GST such as purchase of new accounting software, staff training, and seeking advice specific to GST compliance. The capital expenditures like installation of a new accounting system incurred by the businesses to comply with GST were also permitted to be passed on to prices over several years in line with accounting depreciation rules. As per profit margin rule, the businesses were barred from making undue profits by altering their profit margin, called net dollar margin¹¹, in the process of implementation of GST (ACCC 2000a).

In any case, if required, businesses were expected to justify before ACCC any change in prices due to GST introduction. While doing so, the businesses were expected to retain the official records on the basis of which pricing decisions were made by them during the GST transition period. The records may include accounting documents, invoices, minutes of directors' meeting and diary notes.

(h) Display of price changes: Businesses were directed to adjust their prices as soon as tax changes including reductions took effect (ACCC 2000a, 2000d). In case of shelf prices displayed at the retail shops, they were expected to be updated within 10 days of implementation of GST. If there are any practical difficulties in meeting this requirement, then the retailers were required to display notices in their stores informing the customers that

¹¹ Net dollar margin is defined as follows: Sales price – Cost of goods sold – (Operating and selling costs).

the displayed shelf prices have not yet been adjusted to reflect the tax changes due to GST and hence the GST-inclusive actual prices to be paid would be calculated at the time of billing.

(i) **Penalty:** The ACCC was given the power to seek penalties before the Federal Court for breach of price exploitation provision by businesses and individuals. The Court could impose penalties of up to \$10 million and \$500000 per offence respectively for companies and individuals. Interestingly, the advisers to businesses such as lawyers and accountants were also subject to imposition of penalties on the grounds of aiding and abetting price exploitation.

Outcome of initiatives

As regards the outcome of ACCC's prices oversight regime, during the transition period the ACCC (i) took into consideration over 51000 GST-related complaints and investigated around 7000 of them; (ii) obtained refunds of around \$21 million for the benefit of around 2 million consumers, mostly on account of overcharged GST; (iii) accepted 55 court enforceable undertakings; and (iv) initiated court proceedings in respect of 11 GST-related issues (ACCC 2001a). Thirty five companies responded to ACCC's invitation and adopted acceptable PCC. The ACCC reported its enforcement activities on quarterly basis to the Minister as well as in its journal namely *ACCC Journal* throughout the transition period (ACCC 2003). Also, several businesses have initiated corrective action when GST-related rule violations were brought to their attention by the ACCC. Two examples would illustrate this outcome. First, consequent to the complaint registered with the ACCC, Australia's major discount department store Big W was asked to explain the display of dual ticketing in its stores five months prior to the introduction of GST and that too indicating a 10 per cent increase in the prices. In response to the concerns raised by ACCC, Big W withdrew dual

ticketing of about one million items.¹² Second, when a home building firm placed a “Beat the GST Offer!” newspaper advertisements claiming that the prices of new homes and land would increase by up to 15 per cent consequent to the introduction of the GST, the ACCC investigated the claim (ACCC 2003).¹³ The ACCC was of the view that a 10 per cent GST together with reductions in wholesale sales tax (WST) would result in a less than 10 per cent increase in the prices of new homes and land. The ACCC believed that the firm’s advertisements might mislead the consumers about the impact of GST and hence as a remedial measure obtained a court enforceable undertaking from the firm in which it agreed to (a) place a corrective advertisement apologising for misrepresenting facts in their earlier advertisements; (b) stop making any misleading claims in the future on the impact of GST, and (c) institute a “trade practices compliance program” to ensure that misleading advertisements are not published by the firm in the future.

¹² See <https://www.accc.gov.au/media-release/big-w-withdraws-dual-tickets>, accessed on November 24, 2016.

¹³ Also see, <https://www.accc.gov.au/media-release/new-home-builder-to-fix-gst-representations>, accessed on November 24, 2016.

APPENDIX: Salient Features of Anti-Profiteering Rules

The NAA consists of a Chairman¹⁴, four technical members¹⁵ nominated by the GST council. The GST Council may constitute a **Standing Committee** on Anti-profiteering which shall consist of such officers of the State Government and Central Government as may be nominated by it. A State level **Screening Committee** shall be constituted in each State by the State Governments which shall consist of (a) One officer of the State Government, to be nominated by the Commissioner, and (b) One officer of the Central Government, to be nominated by the Chief Commissioner.

Power to determine the methodology and procedure:

The Authority may determine the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices.

Duties of the NAA:

It shall be the duty of the Authority

- (i) To determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices;
- (ii) To identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices;
- (iii) To order,
 - (a) Reduction in prices;
 - (b) Return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be.
 - (c) Imposition of penalty as specified in the Act; and
 - (d) Cancellation of registration under the Act.
- (iv) to furnish a performance report to the Council by the tenth day of the close of each quarter.]

¹⁴ The Chairman shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty- five years, whichever is earlier and shall be eligible for reappointment.

¹⁵ The Technical Member of the Authority shall hold office for a term of two years from the date on which he enters upon his office, or until he attains the age of sixty-five years, whichever is earlier and shall be eligible for reappointment.

Examination of application by the Standing Committee and Screening Committee:

1) The Standing Committee shall, within a period of two months from the date of the receipt of a written application, in such form and manner as may be specified by it, from an interested party¹⁶ or from a Commissioner or any other person, examine the accuracy and adequacy of the evidence provided in the application to determine whether there is prima-facie evidence to support the claim of the applicant that the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has not been passed on to the recipient by way of commensurate reduction in prices.

(2) All applications from interested parties on issues of local nature shall first be examined by the State level Screening Committee and the Screening Committee shall, upon being satisfied that the supplier has contravened the provisions of section 171, forward the application with its recommendations to the Standing Committee for further action.

Initiation and conduct of proceedings:

(1) Where the Standing Committee is satisfied that there is a prima-facie evidence to show that the supplier has not passed on the benefit of reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, it shall refer the matter to the Director General of Anti-profiteering for a detailed investigation.

(2) The Director General of Anti-profiteering shall conduct investigation and collect evidence necessary to determine whether the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices.

(3) The Director General of Anti-profiteering shall, before initiation of the investigation, issue a notice to the interested parties containing, inter alia, information on the following, namely:-

(a) The description of the goods or services in respect of which the proceedings have been initiated;

(b) Summary of the statement of facts on which the allegations are based; and

(c) The time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

¹⁶ "Interested party" includes (a) suppliers of goods or services under the proceedings; (b) recipients of goods or services under the proceedings; and (c) any other person alleging, under sub-rule (1) of rule 128, that a registered person has not passed on the benefit of reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

(4) The Director General of Anti-profiteering may also issue notices to such other persons as deemed fit for a fair enquiry into the matter.

(5) The Director General of Anti-profiteering shall make available the evidence presented to it by one interested party to the other interested parties, participating in the proceedings.

(6) The Director General of Anti-profiteering shall complete the investigation within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as may be allowed by the Authority and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

Confidentiality of information:

(1) Notwithstanding anything contained in sub-rules (3) and (5) of rule 129 and sub-rule (2) of rule 133, the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply *mutatis mutandis* (meaning "the necessary changes having been made" or "once the necessary changes have been made") to the disclosure of any information which is provided on a confidential basis.

(2) The Director General of Anti-profiteering may require the parties providing information on confidential basis to furnish non-confidential summary thereof and if, in the opinion of the party providing such information, the said information cannot be summarised, such party may submit to the Director General of Anti-profiteering a statement of reasons as to why summarisation is not possible.

Power to summon persons to give evidence and produce documents:

The Director General of Anti-profiteering, or an officer authorised by him in this behalf, shall be deemed to be the proper officer to exercise the power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing under section 70 and shall have power in any inquiry in the same manner, as provided in the case of a civil court under the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

Order of the Authority:

(1) The Authority shall, within a period of three months from the date of the receipt of the report from the Director General of Antiprofitteering determine whether a registered person has passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

(2) An opportunity of hearing shall be granted to the interested parties by the Authority where any request is received in writing from such interested parties.

(3) Where the Authority determines that a registered person has not passed on the benefit of

the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order

(a) Reduction in prices;

(b) Return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen percent from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount including interest not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57;

(c) Imposition of penalty as specified under the Act; and

(d) Cancellation of registration under the Act.

(4) If the report of the Director General of Anti-profiteering referred to in sub-rule (6) of rule 129 recommends that there is contravention or even non-contravention of the provisions of section 171 or these rules, but the Authority is of the opinion that further investigation or inquiry is called for in the matter, it may, for reasons to be recorded in writing, refer the matter to the Director General of Anti-profiteering to cause further investigation or inquiry in accordance with the provisions of the Act and these rules.

Compliance by the registered person:

Any order passed by the Authority under these rules shall be immediately complied with by the registered person failing which action shall be initiated to recover the amount in accordance with the provisions of the Integrated Goods and Services Tax Act or the Central Goods and Services Tax Act or the Union territory Goods and Services Tax Act or the State Goods and Services Tax Act of the respective States, as the case may be.

Monitoring of the order:

The Authority may require any authority of central tax, State tax or Union territory tax to monitor the implementation of the order passed by it.

Tenure of Authority:

The Authority shall cease to exist after the expiry of two years from the date on which the Chairman enters upon his office unless the Council recommends otherwise.

Source: NAA Rules available at <http://www.naa.gov.in/page.php?id=naa-rules>

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