

Kerala State Screening Committee On Anti-Profiteering Vs Emke Silks And Garments Pvt Ltd (Dated: February 11, 2019)- Anti-Profiteering

GST - Anti-Profiteering - Allegation is that the respondent had indulged in profiteering in contravention of s.171 of the CGST Act on the supply of 'Shirts' [Design 689] [HSN 6205] by not passing on the benefit of reduction in the rate of tax at the time of implementation of GST w.e.f 01.07.2017 - DGAP has in its report submitted that 'Shirts' were exempted from Central Excise duty vide notification 30/2004-CX and attracted only VAT @5%; that after implementation of GST w.e.f 01.07.2017, the tax rate on the said product was fixed @5%; the rate of tax on the product remained same in the pre-GST and the post-GST era - moreover, the pre-GST and post-GST base prices (excluding tax) had remained the same, therefore, the provisions of s.171 of the CGST Act, 2017 had not been contravened and the allegation of profiteering by respondent was not established.

Held: Only issue that needs to be dwelled upon is as to whether there was a case of reduction in the rate of tax and whether the provisions of s.171 of CGST Act, 2017 are attracted - It is clear from the facts and the report of DGAP that there was no reduction in the rate of tax on the said product "Shirts" w.e.f 01.07.2017 and hence s.171(1) of the CGST Act, 2017 is not attracted - no merit in the application, hence same is dismissed: NAA