



## मुनाफाखोरी-रोधी महानिदेशालय

(केन्द्रीय अप्रत्यक्ष कर एवं सीमा शुल्क बोर्ड)

राजस्व विभाग, वित्त मंत्रालय

दूसरी मंज़िल, भाई वीर सिंह साहित्य सदन

भाई वीर सिंह मार्ग, गोल मार्केट, नई दिल्ली -110001

### Directorate General of Anti-Profiteering

(Central Board of Indirect Taxes and Customs)

Department of Revenue, Ministry of Finance

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Dated: 24.01.2020

To,

Assistant Commissioner/ Deputy Commissioner/ Joint Commissioner/ Assistant Director (Cost),  
Directorate General of Anti-profiteering,  
II Floor, Bhai Vir Singh Sahitya Sadan,  
Bhai Vir Singh Marg  
Gole Market, New Delhi.

Sir/Madam,

Subject: Note on computation of interest on profiteered amount in terms of Rule 133 (3) of the Central Goods and Services Tax Rules, 2017-reg.

NAA has passed several orders in which profiteering amount has been confirmed (other than NIL cases) along with direction to return or deposit interest @ 18 % per annum on such profiteered amount.

2. In this regard, Principal Director General of Anti-profiteering have approved a note on how the computation of interest on profiteered amount should be done. The same is attached in this letter for your kind information and necessary action please.

Yours faithfully,

*B. Goyal*  
24/01/2020

(Bhupendra Goyal)

Assistant Director

Encl: As above.

**Note on computation of Interest on Profiteered Amount in terms of Rule 133(3) of the Central Goods and Services Tax Rules, 2017**

Please refer to Rule 133(3) of the Central Goods and Services Tax Rule, 2017 which states that:

*“(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 per cent. 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;*
- (c) the deposit of an amount equivalent to fifty per cent. of the amount determined under the above clause along **with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of deposit of such amount in the Fund** constituted under section 57 and the remaining fifty per cent. of the amount in the Fund constituted under section 57 of the Goods and Services Tax Act, 2017 of the concerned State, where the eligible person does not claim return of the amount or is not identifiable;*
- (d) imposition of penalty as specified under the Act; and*
- (e) cancellation of registration under the Act.*

*Explanation: For the purpose of this sub-rule, the expression, "concerned State" means the State or Union Territory in respect of which the Authority passes an order.*

2. In this regard, it is informed that, in general the rule is very much clear that the registered persons have to return or deposit interest @18% per annum from the date of collection of the profiteered amount from the recipients till the date of return to the recipients or deposit in CWF of such amount. However, for removing the difficulties, this office has prepared this note, as per which the registered persons may calculate the interest @18% per annum in following manner:

- (a) **In case of Cinema/Restaurant sectors:** In these sectors, normally the recipient make payment at the same time of availing the service and hence, the date of service*

(invoice/ticket) is the date of collection of amount by the supplier, therefore, interest may be calculated from the date of invoice to date of return to recipient/deposit in CWF.

- (b) **In case of FMCG/Electronics/Other sectors:** In these cases, the interest should be calculated from the payment receipt date to the date of deposit in CWF as illustrated in table- 'A' below:

**Table- 'A'**

S. No.	Particulars	Factor	Amount/figure
1	Invoice No.	A	12345
2	Invoice Date	B	01-04-2018
3	Payment receipt date	C	15-04-2018
4	Invoice Amount	D	10,000
5	Profiteering determined against this invoice	E	800
6	Date of deposit in CWF	F	31-10-2018
7	No. of days	G=F-C	200 days
8	Rate of Interest per annum (in %)	H	18
9	Total Interest	$I=[E*(H/100)*(G/365)]$	78.90/-

However, if the date of collection of profiteering amount is not available than interest may be calculated from the date of invoice to the date of return of amount to the recipient or deposit in CWF in the manner as illustrated in table- 'B' below:

**Table-'B'**

S.No.	Particulars	Factor	Amount/figure
1	Invoice No.	A	12345
2	Invoice Date	B	01-04-2018
3	Payment receipt date	C	Not Available
4	Invoice Amount	D	10,000
5	Profiteering determined against this invoice	E	800
6	Date of deposit in CWF	F	31-10-2018
7	No. of days	G=F-B	214 days
8	Rate of Interest per annum (in %)	H	18
9	Total Interest	$I=[E*(H/100)*(G/365)]$	84.43/-

- (c) **In case of Real Estate Sector:** in real estate sector, the profiteering determined by the National Anti-profiteering Authority will have to be apportioned customer-wise on each and every demand raised/advance received by the Developer/ landowner/builder ("supplier") during the period of investigation and then interest will be computed on such apportioned amount from the date on which the supplier receives the payment for each demand till the date the profiteered amount is returned to the home buyer/deposited in CWF. In cases, where any instalment is raised during the period of Investigation but not paid till date of return of profiteering amount to the home buyers, interest is not leviable. For instance, suppose in an Order, the Authority determined benefit to be

passed on/Profiteering amount of Rs. 50,00,000/- (including GST) out of which Rs. 1,00,000/- (including GST) pertains to Mr. A who booked the flat in year 2015 at a total basic sale price ('BSP') of Rs. 40,00,000/- and the payment schedule is furnished in table- 'C' below:

**Table- 'C'**

S. No.	Payment Stage	Due Date	Basic %	BSP	Payment Received
1	At the time of Booking	01.04.2015	10%	4,00,000	01.04.2015
2	1 <sup>st</sup> Instalment	15.03.2016	5%	2,00,000	31.03.2019
3	2 <sup>nd</sup> Instalment	15.08.2017	10%	4,00,000	31.08.2017
4	3 <sup>rd</sup> Instalment	01.03.2018	15%	6,00,000	01.04.2018
5	4 <sup>th</sup> Instalment	31.08.2018	20%	8,00,000	20.09.2018
6	5 <sup>th</sup> Instalment	15.02.2019	15%	6,00,000	3,00,000 received on 15.04.2019
					Balance 3,00,000 received on 15.07.2019
7	6 <sup>th</sup> Instalment	01.06.2019	10%	4,00,000	Not yet received
8	On possession	Not yet due	15%	6,00,000	-
<b>Total</b>			<b>100.00%</b>	<b>40,00,000</b>	

Suppose, the period of investigation is from 01.07.2017 to 31.03.2019 for which profiteering is determined and Rs. 1,00,000/- is determined to be passed on to buyer Mr. A. This pertains to demand raised from 2<sup>nd</sup> installment to 5<sup>th</sup> Installment and the supplier passes on the benefit on 30.06.2019. In such a case, interest is to be given to Mr. A in terms of Rule 133(3)(b) of the Central Goods and Services Tax Rules, 2017 which will be computed from the date of collection of the higher amount till the date of the return of such amount to Mr. A in the following manner as furnished in table- 'D' below:

**Table- 'D'**

S. No.	Payment Stage	Due Date	Basic %	BSP	Payment Received	Amount to be passed on	Date on which Amount Passed on	No. of Days	Interest @18% per annum
A	B	C	D	E	F	G	H	I = H - F	J = G*(I/365)*18%
1	At the time of Booking	01.04.2015	10%	4,00,000	01.04.2015				
2	1 <sup>st</sup> Instalment	15.03.2016	15%	6,00,000	31.03.2019				
3	2 <sup>nd</sup> Instalment	15.08.2017	10%	4,00,000	31.08.2017	20,000	31.05.2019	639	6302
4	3 <sup>rd</sup> Instalment	01.03.2018	15%	6,00,000	01.04.2018	30,000	31.05.2019	426	6302
5	4 <sup>th</sup> Instalment	31.08.2018	10%	4,00,000	20.09.2018	20,000	31.05.2019	254	2505
6	5 <sup>th</sup> Instalment	15.02.2019	15%	6,00,000	3,00,000 received on 15.04.2019	15,000	31.05.2019	47	347
					Balance 3,00,000 received on 15.07.2019	15,000	31.05.2019	-*	-
7	6 <sup>th</sup> Instalment	01.06.2019	10%	4,00,000	Not yet received				
8	On possession	Not yet due	15%	6,00,000	-				
<b>Total</b>			<b>100.00%</b>	<b>40,00,000</b>		<b>1,00,000</b>			<b>15,456</b>

\* Since Supplier has not received the payment on the date of refund of profiteering amount so interest is not required to be given.

3. As per Explanation 2 to clause (b) of Section 12(2) of the Central Goods and Services Tax Act, 2017, ***“the date on which the supplier receives the payment”*** shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.