# National Anti-Profiteering Authority in GST

**Introduction:**

Any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit should have been passed on to the recipient by way of commensurate reduction in prices. However it has been the experience of many countries that when GST was introduced there has been a marked increase in inflation and the prices of the commodities. This happened in spite of the availability of the tax credit right from the production stage to the final consumption stage which should have actually reduced the final prices. This was obviously happening because the supplier was not passing on the benefit to the consumer and thereby indulging in illegal profiteering. National Antiprofiteering Authority is therefore being constituted by the central Government 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, this is to ensure that the consumer is protected from arbitrary price increase in the name of GST.

**Constitution of the Authority:**

The National Anti-Profiteering Authority shall be a fivemember committee consisting of a Chairman who holds or has held a post equivalent in rank to a Secretary to the Government of India; and four Technical Members who are or have been Commissioners of State tax or central tax or have held an equivalent post under existing laws. The Additional Director General of Safeguards under the CBEC (Board) shall be the Secretary to the 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 **Power to determine the methodology and procedure:**

The Authority can 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 Authority:**

The Authority would have the following duties:

1. 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;
2. 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;
3. to order,
   1. reduction in prices;
   2. 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 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 Consumer Welfare Fund;
   3. imposition of penalty; and
   4. cancellation of registration.

**Application to the Authority:**

All applications from interested parties on issues of local nature shall first be examined by the State level Screening Committee constituted in each State by the State Governments consisting of an officer of the State Government, to be nominated by the Commissioner, and an officer of the Central Government, to be nominated by the Chief Commissioner.

The Screening Committee on being satisfied that the supplier has not passed on the reduction in rate of tax on any supply of goods or services or the benefit of input tax credit on to the recipient by way of commensurate reduction in prices, will forward the application with its recommendations to the Standing Committee on Anti-profiteering, which shall consist of such officers of the State Government and Central Government as may be nominated by the GST council, for further action.

If the Standing Committee is satisfied that there is a *primafacie* 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 Safeguards for a detailed investigation.

**Investigation:**

The Director General of Safeguards shall conduct investigation and collect evidence necessary to determine undue profiteering and before initiation of the investigation, issue a notice to the interested parties (and to such other persons as deemed fit for a fair enquiry into the matter) containing, *inter alia,* information on the following, namely: -

1. the description of the goods or services in respect of which the proceedings have been initiated;
2. summary of the statement of facts on which the allegations are based; and
3. the time limit allowed to the interested parties and other persons who may have information related to the proceedings for furnishing their reply.

The evidence or information presented to the Director General of Safeguards by one interested party can be made available to the other interested parties, participating in the proceedings. The evidence provided will be kept confidential and the provisions of section 11 of the Right to Information Act, 2005 (22 of 2005), shall apply *mutatis mutandis* to the disclosure of any information which is provided on a confidential basis.

The Director General of Safeguards can seek opinion of any other agency or statutory authorities in the discharge of his duties. The Director General of Safeguards, or an officer authorised by him will have the power to summon any person necessary either to give evidence or to produce a document or any other thing. He will also have same powers as that of a civil court and every such inquiry will be deemed to be a judicial proceeding.

The Director General of Safeguards will complete the investigation within a period of three months or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

**Order of the Authority**:

The Authority shall (after granting an opportunity of hearing to the interested parties if so requested) within a period of three months from the date of the receipt of the report from the Director General of Safeguards 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.

If the Members of the Authority differ in opinion on any point, the point shall be decided according to the opinion of the majority.

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-

1. reduction in prices;
2. return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest;
3. imposition of penalty as specified under the Act; and (d) cancellation of registration under the Act.

Any order passed by the Authority 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.

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

**Conclusion:**

National Anti-Profiteering Authority is a mechanism devised to ensure that prices remain under check and to ensure that businesses do not pocket all the gains from GST because profit is fine, but undue profiteering at the expense of the common man is not.

**National Anti-Profiteering Authority under GST**

### **Introduction**

With the rollout of the Goods and Services Tax (GST) regime, a fundamental objective has been to ensure seamless input tax credit and eliminate the cascading effect of taxes. In this context, it becomes imperative that any benefit arising from the reduction in tax rates or availability of input tax credit (ITC) is duly passed on to the end consumer in the form of commensurate price reductions.

However, historical global experiences indicate a trend of artificial inflation upon GST implementation, often attributed to businesses retaining tax benefits instead of transferring them to the consumers. To curb such unethical practices and safeguard consumer interest, the **National Anti-Profiteering Authority (NAA)** was constituted by the Central Government. The authority’s primary mandate is to ascertain whether the benefit of tax rate reduction or ITC has been effectively passed on to recipients.

### **Constitution of the Authority**

The NAA is a quasi-judicial body comprising five members:

* **Chairman**: An individual who is or has been in a position equivalent to the rank of Secretary to the Government of India.
* **Four Technical Members**: Officers who are or have been Commissioners in the Central or State Tax departments or hold an equivalent post.

The **Additional Director General of Safeguards** under the CBIC serves as the Secretary to the Authority.

The Authority is constituted for a **fixed tenure of two years**, which may be extended based on recommendations by the GST Council.

### **Power to Determine Methodology and Procedure**

The Authority is vested with the power to:

* Devise a standardized **methodology and procedure** to determine whether benefits accruing from tax rate reductions or ITC have been appropriately passed on.
* Ensure that registered persons maintain transparent pricing mechanisms in consonance with the spirit of GST.

### **Key Functions and Duties**

The Authority is entrusted with the following responsibilities:

1. **Determine** if the benefit of tax rate reduction or ITC has been passed on to the recipient through proportional price reduction.
2. **Identify** errant registered persons indulging in undue profiteering.
3. **Issue Orders** such as:
   * Mandatory reduction in prices.
   * Refund of the unjust gain to the consumer along with **18% interest** (where the recipient is unidentifiable, the amount is credited to the **Consumer Welfare Fund**).
   * Imposition of penalties under the Act.
   * **Cancellation of GST registration** in severe cases.

### **Grievance Redressal Process**

#### 1. **Initial Screening**

* Applications concerning local issues are first reviewed by a **State-Level Screening Committee**, comprising one Central and one State tax officer.

#### 2. **Standing Committee Review**

* If a prima facie case of profiteering is established, the matter is referred to the **Standing Committee on Anti-Profiteering**.

#### 3. **Investigation by Director General of Safeguards (DGSG)**

* The DGSG initiates a detailed inquiry and issues formal notices outlining:
  + Product/service details.
  + Basis of the allegations.
  + Timeframe for response submission.
* The DGSG may summon individuals, demand documentation, and exercise powers akin to a **civil court**. Confidentiality of information is maintained as per **Section 11 of the Right to Information Act, 2005**.
* The investigation is expected to conclude within **three months**, extendable by another three months with recorded justification.

### **Order of the Authority**

Post investigation, the Authority shall:

* Provide an **opportunity of hearing** to the affected parties.
* Deliver a decision within **three months** from the date of receipt of the DGSG’s report.
* Decide based on majority opinion, in case of a divergence among members.

If a case of profiteering is established, the Authority may direct:

* Price reduction.
* Refund of excess amount with interest.
* Levy of penalty.
* Cancellation of GST registration.

The order of the Authority is binding and must be complied with immediately. Failure to do so triggers enforcement proceedings under relevant GST laws. Furthermore, the Authority can instruct tax departments to monitor compliance of its orders.

### **Conclusion**

The National Anti-Profiteering Authority acts as a vigilant guardian of consumer interests in the GST framework. By deterring unethical profiteering and enforcing fair pricing practices, the NAA helps uphold the foundational integrity of GST as a consumer-friendly tax regime. While profitability is integral to business sustainability, profiteering at the cost of consumer welfare is a regressive practice that the Authority seeks to eliminate. Through timely redressal, transparent processes, and effective enforcement, the NAA plays a pivotal role in reinforcing trust and fairness in India’s tax administration.