

COMPETITION APPELLATE TRIBNAL

UTPE No. 67/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

D.G. [I & R] ...Complainant

Versus

M/s. State Bank of India ...Respondent

Appearances: Dr. K. S. Yadav, ADG for the D.G. [I & R]
Ms. Gurmeet Bindra, Advocate for the respondent

ORAL ORDER
19-04-2010

In view of the order in UTPE 162/2007 - **D.G. (I&R) versus Private Sector Banks** the petition is not maintainable before this Forum. Accordingly the matter is disposed of.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

UTPE No. 69/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

D.G. [I & R] ...Complainant

Versus

Vodafone Essar Mobile Services Ltd. ...Respondent

Appearances: Dr. K. S. Yadav, ADG for the D.G. [I & R]
Mr.Arun Yadav, Advocate for the complainant

ORAL ORDER
19-04-2010

At the request of the representative of the DG, four weeks
time is granted to file the rejoinder.

List the matter on 17th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

UTPE No. 70/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

D.G. [I & R] Complainant

Versus

M/s. United Coffee House ...Respondent

Appearances: Dr. K. S. Yadav, ADG for the D.G. [I & R]
None for the respondent

ORAL ORDER
19-04-2010

Heard the representative of the D.G. [I & R]. In the Preliminary Investigation Report (in short the 'PIR'), DG has indicated no action against the respondent. Notice on the report was sent to the complainant. No one appears on behalf of the complainant. That being the position, the proceedings are closed.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

UTPE No. 71/2008

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Mr. Rahul Sarin,
Member

IN THE MATTER OF

D.G. [I & R] ...Complainant

Versus

H.S.B.C. Bank ...Respondent

Appearances: Dr. K. S. Yadav, ADG for the D.G. [I & R]
None for the respondent

ORAL ORDER

19-04-2010

In view of the order in UTPE 162/2007 - **D.G.(I&R) versus Private Sector Banks** the petition is not maintainable before this Forum. Accordingly the matter is disposed of.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

COMPETITION APPELLATE TRIBNAL

UTPE No. 72/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

D.G. [I & R]

...Complainant

Versus

Aditya Birla Retail Ltd.

...Respondent

Appearances: Dr. K. S. Yadav, ADG for the D.G. [I & R]
None for the respondent

ORAL ORDER

19-04-2010

Rejoinder, if any, to the reply filed by the respondent shall be
filed within four weeks.

List the matter on 17th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

C.A. No. 74/2008

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Mr. Rahul Sarin,
Member

IN THE MATTER OF

Pritam SinghApplicant

Versus

Pradeep Kumar Deb & anr. ...Respondents

Appearances: None

ORAL ORDER

19-04-2010

No one appears for the applicant. The earlier order regarding service on the respondent has not been complied with. It is to be noted that on 25.08.2009, there was no appearance on behalf of the complainant. Similar was the position on the earlier occasions i.e. on 27.04.2009 and 11.02.2009. That being the position, the compensation application is dismissed for non-prosecution.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

COMPETITION APPELLATE TRIBNAL

C.A. No. 77/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

Babita SaxenaApplicant

Versus

Nitishree Infrastructure Ltd. & Ors. ...Respondents

Appearances: Mr. Surender Goel, Advocate for the Applicant
Mr. Brijesh Jha, Advocate for R-1 to R-3

ORAL ORDER
19-04-2010

A copy of the reply be supplied to the learned counsel for the applicant. List the matter on 18th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

C.A. No. 78/2008

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Mr. Rahul Sarin,
Member

IN THE MATTER OF

Rani Devi Saxena

....Applicant

Versus

Nitishree Infrastructure Ltd. & Ors.

...Respondents

Appearances: Mr. Surender Goel, Advocate for the Applicant
Mr. Brijesh Jha, Advocate for R-1 to R-3

ORAL ORDER
19-04-2010

A copy of the reply be supplied to the learned counsel for the applicant. List the matter on 18th August, 2010.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

COMPETITION APPELLATE TRIBNAL

C.A. No. 79/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

Indo Prosoya Foods Pvt. Ltd.Applicant

Versus

Skoda Auto India Pvt. Ltd. & Ors. ...Respondents

Appearances: Mr. N. Prabhakaran, Advocate for the Applicant
None for the respondents

ORAL ORDER
19-04-2010

No one appears for the respondent. Respondent No. 3 has already been set ex-parte on 03.04.2009. After hearing the learned counsel for the applicant, the following issues are framed :-

1. Whether the respondent has indulged in unfair trade practices as alleged?
2. If the answer to the first question is in the affirmative, whether any public interest is involved?

List the matter on 17th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

C.A. No. 80/2008

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Mr. Rahul Sarin,
Member

IN THE MATTER OF

Mritynjay Seal ...Applicant

Versus

Great Astern Appliances Pvt. Ltd.
& Ors. ...Respondents

Appearances: None for the Applicant
Mr. R. K. Sharma, Advocate for R-3

ORAL ORDER

19-04-2010

No one appears for the applicant. Learned counsel for R-3 states that reply is filed during the course of the day and the copy of the same be sent to the learned counsel or the applicant.

List the matter on 17th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

C.A. No. 81/2008

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

Baldevraj Kapoor ...Applicant

Versus

Bedi Transport Services ...Respondent

Appearances: Mr. S. Premchandra, Advocate for the Applicant
Mr. H.R. Jha, Advocate for R-1
Mr. N.K. Kholri, Advocate for R-2

ORAL ORDER

19-04-2010

A copy of the rejoinder filed in respect of reply of R-1 shall be supplied by tomorrow. Rejoinder to the reply filed by R-2, if any, shall be filed within four weeks.

List the matter on 17th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

C.A. No. 591/2000

CORAM

Hon'ble Dr. Justice Arijit Pasayat
Chairman

Hon'ble Mr. Rahul Sarin,
Member

IN THE MATTER OF

Akhilmay Flyash Products Pvt. Ltd. ...Applicant

Versus

Vishwa Industries ...Respondent

Appearances: Mr. P. J. Mehta, Advocate for the Applicant
None for the respondent

ORAL ORDER
19-04-2010

At the request of the learned counsel for the applicant, the matter is adjourned to 17th August, 2010.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

COMPETITION APPELLATE TRIBNAL

C.A. No. 324/1999

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

Shremik Marbals Ltd. ...Applicant

Versus

Bharat Earth Movers Ltd. ...Respondent

Appearances: Mr. R. D. Makheeja, Advocate for the Applicant
Mr. N. S. Ahluwalia, Advocate for the respondent

ORAL ORDER
19-04-2010

Cross-examination of AW-1's witness Shri Atul Kumar Luhadia is completed. With this applicant's evidence stands closed.

Affidavit of evidence of the respondent's witness along with documents shall be filed within eight weeks and if it is done, the admission/denial of the respondent's documents shall take place on 20th July, 2010 and the matter shall be listed on 23rd August, 2010

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBNAL

C.A. No. 328/1999

CORAM

**Hon'ble Dr. Justice Arijit Pasayat
Chairman**

**Hon'ble Mr. Rahul Sarin,
Member**

IN THE MATTER OF

Lohadia Sizing Industries ...Applicant

Versus

Unitech Industries & anr. ...Respondents

Appearances: Mr. R. D. Makheeja, Advocate for the Applicant
None for the respondent

ORAL ORDER
19-04-2010

Though the witness for the applicant AW-1 is present but no one appears for the respondent to further cross-examine him. Further cross-examination of the witness (AW-1) is closed as the respondent is not present. If the respondent has documents to be filed, the same would be filed along with affidavit of evidence within four weeks. If it is done, the admission/denial of the respondent's documents shall take place on 20th May, 2010 and the matter shall be listed on 17th August, 2010.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

COMPETITION APPELLATE TRIBUNAL

C.A No. 324/1999

Statement of Shri Atul Kumar Luhadia s/o Shri Mool Chand Luhadia, r/o Madanganj – Kishangarh (Raj.)

On Oath

I have seen the affidavit dated 03.01.2006 which have been sworn and signed by me. This is exhibited as AW1/1.

Cross-examination of the witness by Shri N. S. Ahluwalia, advocate for the respondent

I am in the business of mining and processing of marble. I did my business with the best of ability and therefore the question for expertise in the business is irrelevant. I am a Chartered Accountant by qualification. After completing my Chartered Accountancy, I started my business in marble. Since I am not a technical person, I do not know the detailed functioning of the machinery of excavation I have basic ideas and knowledge about this process. After discussing with the functionaries of the seller about the use and utility of the particular machine, we take a decision as to whether we purchase such machinery. Since I had four machines and those we are using before the purchase of the machine in question and I have detailed knowledge about its use. The machines which I already purchased are from different manufacturer i.e. Tata Hitachi and the machines are used for the purpose of mining and also for construction activities. Sister company for which we have purchased the machine is named "Navbharat Builtcon Pvt. Ltd. The work done by the sister concern is not the same kind. They are of different kind and that the different machines are used. The machine in question was not

purchased initially for the use of the construction business, it was purchased for the purpose of mining business. To meet the urgent needs of the sister concern the machine in question was used in the construction activities of the sister concern. It was used about ten to eleven months. Since the nature of work done was of a mining nature, there was no difficulty in the functioning of the machine when it was used for the construction work. As regards normal use of the machine in question we use it for shifting of the earth from the surface and it does not involve complex activities. Wherein hard rock is involved, the machine is not used. Primarily it was used for the purpose of lifting earth from one place and putting in the dumper. For both shifting of earth and mining activity similar type of machines are supplied by the respondent. The only difference is, in the case of mining the heavy duty bucket is supplied whereas in the case of soil only light duty bucket is used. Though buckets are inter-changeable normally different types of buckets are supplied. In the machine in question I took both types of buckets i.e. Heavy Duty Bucket and Light Duty Bucket. Because the work in question related to the shifting of the soil, there was no question of using hard duty bucket. I may clarify that what I meant earlier is the work involved only lifting of soil so there was no question of using hard duty bucket. Other machines which have been used are for different work depending upon on the nature of the work. It goes without saying that the nature of bucket would depend on the nature of the work. There was no deficiency noticed in the machine when it was initially used but after sometime it developed problems and therefore the correspondence were entered into. The machines were transported by trailers. Since the buckets are spare parts they were also transported in the trailer. When the machines were used initially there was no difficulty but the moment it was used for mining rocks

problem started in the track shoes and thereafter on certain parts of the machine. The problem started after about two weeks. When it is for removing only the mined materials big buckets are used and that would facilitate the removal faster and in other cases small buckets are used. It would depend upon the pressure required to be put for the purpose of shifting. The nature of the bucket is to be used is also decided by the operator as he has working knowledge and being in the line of the business. I also know what type of bucket is to be used. It is not possible on my part to be present on all the occasions but members of the staff are present when excavation work is done. Some of my staff members are technically qualified and some of them have expertise by work. As soon as the defects were noticed the respondents were informed. The respondent replied that they would try to replace the defective parts and asked us to continue with the work. On the advice of the respondent, we reduce the travel work so that there was no further damage to the spare parts involved. We had telephonically told about the problems and telephonically the response was given. There was also a written complaint. I had talked and my father had also talked to the respondent on several occasions. I never had problems with the machines supplied by other manufacturers. The functioning of the machine supplied by the other manufacturers is almost similar to that of the machine in question. Since the response of the respondent was not very timely we had to seek redress before this Forum. The operator and the other members of the staff and myself are aware as to what way the machines are used. The manual of the machine was supplied along with the machine and we acted in terms of the manual so far as the servicing etc. is concerned. Whenever initially we asked for the services, functionaries of the department of the respondent came to attend the complaint though initially they were doing work later on they started

the complaint of the non-functioning and defects. The response was not very encouraging and the defects were not attended too. We tried as far as possible without dislocation of work by minor repairs or minor servicing. So far as the track shoes are concerned there is no question of any repair as parts have to be replaced. We wanted replacement of the track shoes which was not done by the respondent. The payment for replacement of track shoes was not to be made before the warranty period was over. It is not a fact that the machine was used for the purpose of digging by use of force. The machine was never used as a breaker. The machine was never used as a pile driver. It is not a fact that normal wear and tear of the track shoes was damaged though sometimes it gets polished. Not only me, several others from the same business found defects in the machine supplied by the respondent. To the best of my knowledge, they also had filed the cases. Some of them related to track shoes and other relate to deficiency and after sale service. After the complaints were made sometimes some official came to attend it but there was no positive steps taken by them and though they assured necessary corrective steps were to be taken, nothing was done. I do not remember whether any service report regarding the defects was made or whether copies were given to me. Though initially at some stage they were offered the replacement of track shoes were made on my being paid 25% of the price. I decline the offer. Though it was told that track frame should be replaced, the old track frame has taken back and supply of new track frame was to be made but in reality there was no such thing done by the respondent. The total period of the machine work was 5000 – 6000 hrs. thereafter the machine was totally non-functional. I do not have any personal knowledge as to whether in any of the cases where complaints were

made there has been any replacement but I am aware there was general dissatisfaction among them.

Cross-examination concluded.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

R.O. & A.C.
19-04-2010

Espoused

Chequered

Career

