

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 15/2009

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

**The Director General (Investigation
and Registration) [the DG] ... Complainant**

Prof. Amod Gupta ... Informant

- Versus-

M/s. Balinalla and Homi Pvt. Ltd. ... Respondent

Appearances : Shri C. Shanmugam, ADG for the DG.

Shri Uday Gupta, Advocate for the Informant.

ORAL ORDER

6th November, 2009

It is stated that the report in question shall be filed within two weeks.

List the matter on **14th December, 2009.**

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

**[Pravin Tripathi]
Member**

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

I.A. No. 04/2008

RTPE 03/2008

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

Mr. Ram Babu Piple **... Complainant**

- Versus-

Mr. K.C. Palia **... Respondent**

Appearances : Shri Rama Shankar, Advocate for the Complainant.

Shri R.R. Kumar, Advocate for the Respondent.

ORAL ORDER

6th November, 2009

List the matter on **26th November, 2009.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 07/2009

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

Manoj Mangam ... **Complainant**

- Versus-

M/s. Force Motors Ltd. & Ors. ... **Respondents**

Appearances : None for the Complainant.

Shri C. Balooni, Advocate for Respondent No. 1.

Shri Jainul Abdul, Advocate for Respondent No. 2.

ORAL ORDER

6th November, 2009

None appears for the complainant. Learned counsel for respondent No. 2 states that a complete set of the brief has not been supplied to him. Let it be done within a period of one week from today. Learned counsel for respondent No. 1 states that his reply is ready and will be filed within a period of three weeks.

List this matter on **15th December, 2009.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 01/2007

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

**The Director General (Investigation
and Registration) [the DG] ... Complainant**

- Versus-

Associated Cement Co. & Anr. ... Respondents

Appearances : Shri C. Shanmugam, ADG for the DG.

Shri A.K. Rao, Advocate for the Respondent.

ORAL ORDER

6th November, 2009

Eight weeks' time is granted to file the response as prayed for
by the learned counsel for the respondent.

List the matter on **19th January, 2010.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

I.A. No. 55/2007

RTPE 23/2007

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

Mr. Nikhil Nath **... Complainant**

- Versus-

Haryana Urban Development
Authority, Gurgaon **... Respondent**

**Appearances : Ms. Alka, Proxy for Shri P.K. Jain, Advocate for
the Complainant.**

None for the Respondent.

ORAL ORDER

6th November, 2009

List the matter on **17th November, 2009.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

C.A./2009
RTPE 45/2000

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

Gurcharan Sigh Gill **... Complainant**

- Versus-

Gaur International **... Respondent**

Appearances : Shri B.K. Sinha, Advocate for the Complainant.

**Shri Rajesh Dutt Sharma, Proprietor of the
Respondent Firm.**

ORAL ORDER

6th November, 2009

It is stated by the Proprietor of M/s. Gaur International, who appears in person, that the response to the compensation application under Section 12-B of the Monopolies and Restrictive Trade Practices Act, 1969 has been filed. Learned counsel for the complainant states that a copy of the same has not been supplied to him. Let it be done within a week from today. Three weeks' time is granted to the complainant to file the rejoinder affidavit, if any.

List the matter on **1st December, 2009.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

I.A. No. 03/2007

Contempt Application No. /2005

RTPE 05/2003

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

Atul Kumar Sharma **... Complainant**

- Versus-

Ghaziabad Development Authority **... Respondent**

Appearances : The Complainant in person.

Ms. Reena Singh, Advocate for the Respondent.

ORAL ORDER

6th November, 2009

Without prejudice to the claims involved, let the possession of the kiosk in question be delivered to the complainant within a period of three weeks. This is a case which has very peculiar features and it would be appropriate that the respondent authority adopts humanitarian approach and comes up with a suggestion as to how much more, if any, in full and final settlement of the claims requires to be paid by the complainant to the respondent authority.

List the matter on **19th January, 2010.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 83/2000

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

**The Director General (Investigation
and Registration) [the DG] ... Complainant**

**- Versus-
Cement Manufacturers' Association & Ors. ... Respondents**

Appearances : Shri V.K. Mehta, Advocate for the DG.

Shri N. Jayakumar, Advocate for the Informant.

Shri R.R. Kumar, Advocate for Respondent No. 1.

Ms. Jasleen K. Oberoi, Advocate for Respondent No. 2.

Shri Harishankar, Advocate for Respondents Nos. 4 & 5.

ORAL ORDER

6th November, 2009

Cross-examination of the DG's witness, Shri V.S. Ekambaram, was concluded by learned counsel for respondents Nos. 1, 2, 4 and 5.

List the matter on **11th January, 2010 at 2:00 P.M.** for admission/denial of the respondents' documents.

List the matter on **18th January, 2010.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 83/2000

6th November, 2009

**Statement of Shri V.S. Ekambaram, S/o Shri V.S. Sivarajan, Proprietor,
Sri Gayathri Agencies, 31-A, Nello Kara Street, Kanchipuram – 631 502.**

ON OATH :

I have seen the affidavit dated 05.05.2008 signed and sworn by me. The affidavit is exhibited as Ex. A.W. 1/1 (Colly.).

**Cross-examination by Shri R.R. Kumar, Counsel for Respondent No. 1
i.e. Cement Manufacturers' Association :**

I am the authorized dealer for the city of Kanchipuram for the products of Respondent No. 2, erstwhile Larsen & Toubro Ltd. at that relevant time. It is not a fact that between February and May, 2000, I have paid approximately Rs. 85,91,225/- by way of 40 cheques in respect of the prices of the goods lifted during the aforesaid period. According to me, it was in respect of the running Account. All the cheques were dishonoured because I had instructed the concerned banks to stop payment. I have sold the entire material lifted from Larsen & Toubro Limited during the aforesaid period of February to May, 2000. As per my accounts, the payments in respect of such goods have already been made. I have not filed the details of accounts before the MRTP Commission but I have filed all the details in the civil suit i.e. C.S. No. 279/2000 before the Madras High Court. I have not given a copy of the accounts to the DG. It is not a fact that I have not made

payments as claimed by me. It is not a fact that with a knowledge that the cheques are to bounce, I instituted the present complaint with the malafide intention. According to me, the Cement Manufacturers' Association exists both in Delhi and Chennai. It is a fact that the DG, on enquiry, found that there was no such Association as Cement Manufacturers' Association either at Delhi or at Chennai and, therefore, on 14.11.2002 and 15.12.2003, the DG made a request to the Commission to delete this so-called Association from the array of parties. It is a fact that in the agreement, there is no prohibition for a stockist or an agent to sell the goods of the Principal in terms of the agreement at places beyond the stipulated place as indicated in the agreement. But, according to me, such a practice has never been followed. There is no material which was produced before the DG or has been filed before this Commission that any grievance was made by me about non-observance of certain stipulations in the agreement as referred to above. Though there is no prohibition in the agreement for a stockist or agent to sell below the Maximum Retail Price (M.R.P.) but that is not an adopted practice. I had never made any complaint to any official of the Larsen & Toubro about the denial of permission to sell at a price below the M.R.P. because, as a dealer, I was supposed to deal with

the product most effectively and such a grievance, even if, would have been made would not have yielded any results. It is not a fact that I am making false statements before the Commission on the aspect noted above. According to me, a cartel was formed so that all the manufacturers quoted identical prices when bidding for govt. contracts and this would be evident from the documents which are available. The documents in this regard are at Pages 65, 66, 67 and 68 of the affidavit of evidence filed by me. The documents at Page 65 to 68 are, in fact, letters written by me to the Collector and Chairman regarding the supply and delivery of cement and are communications addressed to the manufacturers. I have got the copies of the documents as I was coordinating the supply on behalf of the Larsen & Toubro. Though I have documents to show that Larsen & Toubro had authorized me to do so, I have not filed them in the proceedings. If time is given, I can file the auhorisation authorizing me to act on behalf of Larsen & Toubro in the concerned tender. I do not remember the date, month or year when I claim to have participated in the negotiations in the concerned tender. It is not a fact that I am stating falsely that I was authorized or to represent the L&T or that I had participated in the negotiations relating to the tenders in question. If time is granted I can file the documents

in question. It is a fact that the documents at pages 65 to 68 are the orders of the Collector affixing the rates of contract at a particular amount but I say that because all the manufacturers had fixed a common rate, the Collector had no option but to fix it at a particular figure. It is a fact that I was present at the negotiations when their rate was fixed at 2560 per metric tonne. It is not a fact that I am making false statement in this regard. It is not a fact that whatever I have stated in the affidavit is based on hearsay; on the contrary, it is based on my personal knowledge.

Cross-examination by Shri Hari Shankar, Counsel for Respondents Nos. 4 and 5 i.e. Penna Cement Industries Limited and India Cements Limited :

I am not a member of the Cement Manufacturers Association. Though it is a fact that I have not attended any meetings of the Cement Manufacturers' Association, I came to know about the details because of my interactions with the officials or the functionaries of the Association. This interaction was necessary because I was involved in the transactions as a stockist and a dealer. Whenever the meetings of the Cement Manufacturers' Association takes place, the supply was stopped. It is not a fact that in a meeting of the Cement Manufacturers' Association the aspect of price fixation is not discussed. I was only representing

Larsen & Tubro Limited and not Penna Cement Industries Limited or India Cements Limited in the negotiations. I do not have any personal knowledge as to whether the rates quoted by Penna Cement Industries Limited or India Cements Limited was at the request of the Collector.

Cross-examination by Ms. Jasleen K. Oberoi, Counsel for Respondent No. 2 :

I have not mentioned in my affidavit that I was an authorized agent of Zuari Cements at the relevant point of time. I was not participating in the negotiations on behalf of Zuari Cements and one Shri Ravindran was doing it. The rates indicated in the documents at pages 65 to 68 were arrived at after negotiations. Because of my presence in the office of Zuari Cements, I came to know that there was a meeting of the Cement Manufacturers' Association in the sales office of Zuari Cements. Almost on all the dates of the meetings of the Cement Manufacturers' Association, I was present because as earlier stated I was involved in most of the transactions. Though, my place of business is at Kanchipuram, because of my volume of business I have to be at the offices of the different Cement Manufacturers in regard to the transactions. It is not a fact that I was present on most of the days when the deliberations took place of the members

of the Cement Manufacturers' Association. It is not a fact that I am stating falsely about the members or the decisions. When I stated about the office of the Zuari Cement, I meant the Chennai office of Zuari Cement. It is not a fact that I am deposing falsely about my participation or being aware of the decisions/views expressed in the meeting of the so-called Cement Manufacturers' Association. When I speak of the officials of the Cement Company, I mean officials of the level of the General Manager or above. The prices negotiated were in respect of all the cement companies.

Cross-examination concluded.

R.O.A.C.

**[Dr. Arijit Pasayat]
Chairman**

**[Rahul Sarin]
Member**

**[Pravin Tripathi]
Member**

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 128/1992

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

**The Director General (Investigation
and Registration) [the DG] ... Complainant**

- Versus-

Buroughs Welcome (I) Ltd. ... Respondent

Appearances : Shri R.D. Makheeja, Advocate for the DG.

Shri Aditya Narain, Advocate for the Respondent.

ORAL ORDER

6th November, 2009

List the matter on **19th January, 2010.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

RTPE 107/1992

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

**The Director General (Investigation
and Registration) [the DG]**

... Complainant

Kamla Rastogi & Anr.

... Informants

- Versus-

Unikol Bottler Ltd. & Anr.

... Respondents

Appearances : Shri R.D. Makheeja, Advocate for the DG.

None for the Respondents.

ORAL ORDER

6th November, 2009

We have heard Mr. Makheeja, counsel for the DG. None appears for the respondent. The issue involved in this case is of a very small nature. Undisputedly, respondent No. 1 had appointed the complainant as their distributor. The deposit of money as claimed by the complainant is also not disputed by the respondent. From the cross-examination of the respondent No. 1's witness, Shri Kripal Singh (R.W. 1), it appears that the stand is of non-termination of the agreement, and there is no specific denial about the receipt of the money. The only ground which appears to have been stressed is that since the complainant did not lift the goods, another distributor had to

be appointed and, therefore, respondent No. 1 suffered losses. There is no material to show as to what was the quantum of loss, if any, suffered and the basis of quantification of such loss.

In the circumstances, the claimants are entitled to the refund of the amount which was undisputedly deposited with the respondent No. 1, with interest @ 6% per annum from the date of deposit till the actual payment is made which we direct to be done within a period of three months from today.

The petition is accordingly disposed of.

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

COMPETITION APPELLATE TRIBUNAL
NEW DELHI

C.A. No. 17/2008 IN
RTPE 235/1997

CORAM

Dr. Justice Arijit Pasayat
Chairman

Shri Rahul Sarin
Member

Ms. Pravin Tripathi
Member

In the matter of :

Balram K. Mahendra	... Complainant
- Versus-	
Ansal Properties & Industries Ltd.	... Respondent

Appearances : Shri Aditya Narain, Advocate for the Complainant.

Shri Awtar Singh, Advocate for the Respondent.

ORAL ORDER

6th November, 2009

Learned counsel appearing for the parties are directed to give a compilation of the papers on which they place reliance so that it would be easier to deal with the matter. Four weeks' time is granted for the purpose. Learned counsel for the parties are granted permission to inspect the records to find if any document is missing, so that steps for substitution of the necessary document(s) can be taken.

List the matter on **11th December, 2009.**

[Dr. Arijit Pasayat]
Chairman

[Rahul Sarin]
Member

[Pravin Tripathi]
Member

