

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
NEW DELHI

Competition Appeal (AT) No. 14 of 2017

IN THE MATTER OF:

Bablu and Company. Appellant

Vs

Fatehchand & Company & 10 Ors. Respondent

Present:

For Appellant: - Mr. Ashish Chauhan, Advocate.

ORDER

11.08.2017 – The Appellant, a fruit merchant, filed information under Section 19 (1) (a) of the Competition Act, 2002 (hereinafter referred to as the Act) before the Competition Commission of India (hereinafter referred to as the Commission) alleging contravention of provision of Section 4 of the Act against the Respondent/Opposite Parties (OP).

2. It was alleged that the Appellant/Informant ordered 67 boxes of Oranges from Respondent/O.P. No.1 on 6th March 2017. It was also alleged that he received only supply of 47 boxes. In response to information regarding non supply of remaining 20 boxes of orange, the Respondent/O.P. No.1 had replied that he has supplied 20 boxes to other fruit merchants. The Appellant/Informant alleged that all the Respondent/Opposite parties follow the same practice and abuse their dominance position. Prayer was made to pass appropriate order and as such the Appellant sought for relief of Rs.5.5 crores.

3. The Commission carefully pursued the information and materials on record and taking into consideration the facts the circumstances of the case and that apart from the allegation, no specific material was provided by the Appellant to indicate even remotely the violation of any provision of the Act. Regarding the decision of the Commission in four similar cases and following those position, the Commission was of the opinion that no *prima facie* case of contravention of provision of Section 4 of the Act has been made out asking for any inquiry by D.G (CCI) and ordered to close the case forthwith in terms of the provisions contained in Section 26(2) of the Act. The said impugned order dated 9th June 2017 passed by the Commission in Case No.15/2017 is under challenge.

4. Ld. Counsel for the Appellant made similar submission as alleged before the Commission. However, he accepts that he has not paid any amount to purchase 67 boxes of oranges. Apart from the fact that the Commission in absence of any evidence closed the matter, we are of the view that to make the market competitive for equitable distribution of sale of fruit by the opposite parties, i.e. in accordance with the Competition Act, cannot be alleged to be contravention of Section 4 of the Act.

5. We find no merit in this appeal. It is accordingly dismissed. In the circumstances of the case, there shall be no order as to cost.

(Justice S.J. Mukhopadhaya)
Chairperson

(Mr. Balvinder Singh)
Member (Technical)