

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

COMPETITION APPEAL (AT) No.13 of 2020

&

i.a. no.36, 44 & 47 of 2020 & 1121 of 2021

In the matter of:

Grasim Industries Ltd

Appellant

Vs

Competition Commission of India & Anr

Respondent

Present

Mr C Aryama Sundaram Sr. Advocate, Ms Nisha Kaur Uberoi, Mr Mathew George, Mr. Gautam Chawla, Ms Shivangi Chawla, Mr Ishan Arora, Advocates for appellant.

Mr Samar Bansal, Mr Manu Chaturvedi, Ms Harsheen Madan, Advocates for R1.

Ms Nikita Rathi and Mr Rahat, Advocates for R1 and R2.

Mr MM Sharma, Mr Anand Sree, Advocates for R2.

Ms Shama Nargis, Advocate for CCI.

With

COMPETITION APPEAL (AT) NO. 11 OF 2020

In the matter of:

Textile Consumers Foundation

Appellant

Vs

Competition Commission of India & Anr

Respondent

Present:

Mr MM Sharma, Mr. Anand Sree, Advocates for appellant.

Mr. Nisha Kaur Uberoi, Advocate for R2.

Mr Samar Bansal, Sr Advocate, Mr. Manu Chaturvedi, Advocate for R1.

Mr C Aryama Sundaram, Sr Advocate, Mr Mathew George, Advocate for R2.

Ms Shama Nargis for CCI.

Ms Harsheen Madan, Advocate for R1.

Mr. Gautam Chawla, Advocate.

ORDER

(VIRTUAL MODE)

26.08.2021: Counsel for the appellant and counsel for respondent are present.

Pursuant to order dated 18.08.2021 the learned counsel for the appellant has filed hard copy of the order dated 26.7.2021 of the Hon'ble Delhi High Court in WP© No.6329 of 2021. The relevant para of the order is as under:

“3. Today both learned senior counsel for the petition as well as the learned ASG have been heard at some length. The parties are at variance regarding the interpretation of the order dated 04.11.2020, passed by the NCLAT in the petitioner’s pending appeal against the order dated 16.03.2020. Learned senior counsel for the petitioner submits, that the petitioner’s application for stay being I.A. Nos. 36/2020, 44/2020 and 1121/2021 are still pending adjudication before the learned NCLAT and are likely to be taken up for consideration alongwith the appeal on 18.08.2021.

4. Though Mr. Sharma appearing on behalf of the intervenor, repeatedly contends that the petitioner’s stay application being IA No.36/2020

already stands disposed of, a perusal of the orders passed by the NCLAT shows otherwise.

5. In the light of the aforesaid, the learned ASG fairly submits that keeping in view the undertaking given by the petitioner, to press their pending stay applications before the NCLAT on 18.08.2021, the respondent/Commission will not take any precipitative steps till the next date.

6. In these circumstances, it is hoped that keeping in view the impugned order passed by the respondent, the learned NCLAT will on the next date take up the petitioner's pending applications for stay and pass appropriate order thereon.

7. List on 01.09.2021.”

On 18.08.2021 this Court directed to list all three IA Nos 36 and 44 of 2020 and 1121/2021 filed on behalf of the appellant and also IA No.47 of 2020 which has been filed on behalf of the Respondent No.2/Textile Consumer Foundation in Competition Appeal (AT) No.13 of 2020 for **‘orders’** on 26.08.2021. Hence the matter is listed today.

From the perusal of the order dated 04.11.2020 passed in this case after hearing the parties, the Division Bench of this Tribunal presided over by Hon’ble Justice Mr. Jarat Kumar Jain, passed the following order:

“After hearing the Learned counsel for the parties, we are of the considered view that the recovery of penalty amount Rs.301.61 Cr may be stayed, during the pendency of this appeal. Therefore, it is directed

that subject to deposit 10% of penalty amount within 15 days i.e. till 19th November, 2020 the recovery of penalty shall remain stayed for six months or till disposal of this Appeal, whichever is earlier. Failing which the Commission may proceed further as per law.

Let the Appeal be listed on 6th November, 2020.”

Mr. M.M.Sharma, learned counsel for Respondent No.2 in Competition Appeal (AT) No.13/2020 have sent an email dated 23.08.2021 addressed to the Registrar, NCLAT with caption heading urgent request for Change of Bench. Learned counsel for the Respondent No.2 is directed to serve soft copy of the email to the learned counsel for the appellant and learned counsel for the Competition Commission on their email address by Monday, 30.08.2021.

Perusal of the email dated 23.8.2021 reveals that Learned Counsel for the Respondent No.2, Mr. MM Sharma, have further mentioned that if the IA No.44/2020 and 36/2020 are heard afresh it will amount to review of its own order dated 4.11.2020.

Perusal of the order dated 4.11.2020 passed in Competition Appeal (AT) No.11/2020 alongwith Competition Appeal (AT) No.13/2020 reveals that order was passed by the Bench comprising of Hon'ble Justice Mr. Jarat Kumar Jain, Member (Judicial) and Mr. Balvinder Singh, Member (Technical).

Under the circumstances we are of the view that these appeals alongwith IAs be released from our docket and the matter may be placed before the Hon'ble Officiating Chairperson for passing appropriate order.

From the perusal of the order dated 6.7.2021 while hearing IA No.47/2020 in Competition Appeal (AT) No.13/2020 the entire lower court record of Case No.62 of 2016 dated 16.3.2020 was called for.

The lower court entire record have been received in sealed cover and kept in two steel box in safe custody. Registrar, NCLAT is directed to make arrangement for transfer of the lower court record to the appropriate Court after the order in this case is passed by Hon'ble Officiating Chairperson.

Let a copy of this order be sent to Registrar, NCLAT.

Interim order dated 4.11.2020 to continue.

(Justice Anant Bijay Singh)
Member (Judicial)

(Ms Shreesha Merla)
Member (Technical)

Bm/nn