NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Competition App. (AT) No. 04 of 2021

IN THE MATTER OF:

International Subscription Agency

...Appellant(s)

Versus

Competition Commission of India & Ors. ...Respondent(s)

Present:

For Appellant	:	Mr. Arunava Mukherjee, Nisarg P Khatri, Adv.
For Respondents	:	Mr. Dinesh Chandra, Dy. Director CCI Ms. Deeksha Manchanda, Uday Bali, Jai Hindocha, Adv. for R2 and 3 Mr. Vaibhav Arora, Adv. for R4

O R D E R
(Hybrid Mode)

Per: Justice Rakesh Kumar Jain: (Oral)

27.08.2025: This appeal is directed against the order dated 23.02.2021 by which an application filed under Section 19(1)(a) of the Competition Act, 2002 (in short 'the Act') by the Appellant, namely, M/s International Subscription Agency as informant against Good Offices Committee ('GOC'), through Chairman of the Federation of Publishers' and Booksellers' Associations in India ('FPBAI'), alleging contravention of the provisions of Section 3 (3) (a) read with Section 3 (1) of the Act by which the Tribunal has passed the following order:-

> 53. FPBAI and its individuals, viz. Mr. Sunil Sachdev and Mr. S.C. Sethi, are directed to cease and desist from indulging into any conduct/ practice, which has been found in the present order to be in contravention of the provisions of Section 3 of the Act, as detailed in the earlier part of the present order.

54. Under the provisions of Section 27 (b) of the Act, the Commission imposes the following amounts of penalty upon FPBAI and its individuals, viz. Mr. Sunil Sachdev and Mr. S.C. Sethi identified above in terms of the provisions of Section 48 of the Act:

Table 2

(In ₹)

Sl. No.	Name of the Party	Penalty Imposed	Penalty Imposed in Words
1.	Federation of Publishers' and Booksellers' Associations in India	2,00,000	Rupees Two Lacs Only
2.	Mr. Sunil Sachdev	1,00,000	Rupees One Lac Only
3.	Mr. S.C. Sethi	1,00,000	Rupees One Lac Only

55. The Commission directs FPBAI and the above-stated persons to deposit the respective penalty amounts within 60 days of the receipt of this order.
56. The Secretary is directed to inform the parties accordingly.

2. During the pendency of this appeal, an application bearing I.A No. 1064 of 2024 was filed by the Appellant invoking Rule 11 of the NCLAT Rules, 2016 to implead Allied Publishers Private Limited as Respondent No. 5 and Vangiri Press as Respondent No. 6 in this appeal.

3. The Appellant had also filed I.A No. 1063 of 2024 by invoking the same Rule for permission to place on record additional ground referred in para 3 (v) of the application.

4. I.A No. 1064 of 2024 and I.A No. 1063 of 2024 were taken up together and by order dated 05.12.2024 both the applications were dismissed. The said order is reproduced as under:-

"**I.A. No. 1064 of 2024:** This Application has been filed under Rule 11 of the National Company Law Tribunal Rules, 2016 seeking to implead Allied Publishers Private Limited as Respondent No. 5 and Vangiri Press as Respondent No. 6 in this appeal.

2. Counsel for Respondent has referred to an order passed by this Court on 19.07.2021 which read as under:-

> "Heard Ld. Counsel for the Appellant he submits that the CCI has passed the penalty which is not inconsonance with Section 27(b) of the Competition Act. Issue notice. Ld. Counsels for all Respondents accept notice. Ld. Counsel appearing on behalf of the Respondents No. 2, 3& 5 submit that the Respondent No. 5 was not a party before the CCI and he has wrongly been added as a Respondent No. 5. At this juncture, Ld. Counsel for the Appellant submits that the Respondent No. 5 may be delated from the array of the parties. We have considered the submissions of Ld. Counsels for the parties. The Appellant is directed to delete the name of Respondent No. 5 from the array of the parties and is also directed to make necessary corrections in the Memo of Appeal. Ld. Counsel for the Respondents seek and are granted two-week time to file Reply Affidavit. Rejoinder, if any, may be filed within one week thereafter. Let the matter be fixed 'For Admission (After Notice)' on 25th August, 2021."

3. He has also submitted that the Applicant, who sought to be impleaded as Respondent No. 6, was also not a party before the Commission rather Respondent No. 6 is the company of Respondent No. 4 who has been saddled with the penalty.

4. Counsel for Respondent has thus submitted that the act of the Appellant is overreaching the Court, therefore, the application deserves to be dismissed with heavy costs.

5. On the other hand, while pressing this application, Counsel for the Appellant has submitted that both Respondents are necessary parties because the Respondents are the one who are misusing the dominant position whereas Counsel for the Respondent has submitted that this not a case of Section 4 rather it is the case of Section 3(3) of the Act, 2022.

6. We have heard Counsel for the parties on this application and are of the considered opinion that the application is totally misconceived because Respondent No. 5, who was earlier party in the appeal and not a party before the Commission, was deleted by non-else then the appellant. It is really amusing as to how, with the change of counsel, the present application can be filed for

seeking impleadment of the same party which was once deleted and the order dated 19.07.2021 was not challenged or recalled by the Appellant on the pretext that the statement suffered by the counsel at that time was incorrect. Secondly, Respondent No. 6 was also not a party before the Commission and on that analogy, on which the order dated 19.07.2021 was passed, disentitles the Respondent No. 6 to become a party in this appeal at the instance of the Appellant.

7. Having observed, thus, we are of the considered opinion that the present application is nothing else but an abuse of process of law and is also a waste of precious time of this Court, therefore, the same is dismissed with costs of Rs. one lac which shall be deposited by the Appellant in the Prime Minister Relief Fund within a period of 30 days from the date of passing of this order.

I.A. No. 1063 of 2024: This Application has been filed under Rule 11 of the National Company Law Tribunal Rules, 2016 seeking permission to place on record Additional Grounds in this appeal.

2. Counsel for the Appellant has referred to para 3(v) to contend that the Appellant wanted to include the said paragraph in the ground of the appeal which read as under:-

> "(v) That it is already placed on record that in the 2nd Meeting of the Executive Committee of FPBAI for the Financial Year 2020-21, the then President, Mr. Pradeep Arora, while discussing the Impugned Order as Agenda Item No. 12 invited Respondent No. 3 to brief the members about the Impugned Order of the Ld. CCI and even at such time he spoke adversely about excessive discounts adversely impacting profitability, thereby demonstrating wilful contempt and lack of respect for the Impugned Order despite being penalized in terms of the Impugned Order (see Item 12 of Annexure A-3, p. 80 @ p. 83)."

3. Counsel for the Appellant has fairly contended that the pleading would be referable to two parties, namely, Allied Publishers Private Limited and Vangiri Press.

4. Since, we have already dismissed the application i.e. I.A. No. 1064 of 2024 by which the Appellant has sought to implead the aforesaid two companies as a party, therefore, in the absence of the company being a party in the appeal as Respondents, the averment made in paragraph 3(v) is inconsequential. The order passed in I.A. No. 1064 of 2024 is also reproduced for a quick reference which read as under:-

"I.A. No. 1064 of 2024: This Application has been filed under Rule 11 of the National Company Law Tribunal Rules, 2016 seeking to implead Allied Publishers Private Limited as Respondent No. 5 and Vangiri Press as Respondent No. 6 in this appeal.

2. Counsel for Respondent has referred to an order passed by this Court on 19.07.2021 which read as under:-

> "Heard Ld. Counsel for the Appellant he submits that the CCI has passed the penalty which is not inconsonance with Section 27(b) of the Competition Act. Issue notice. Ld. Counsels for all Respondents accept notice. Ld. Counsel appearing on behalf of the Respondents No. 2, 3& 5 submit that the Respondent No. 5 was not a party before the CCI and he has wrongly been added as a Respondent No. 5. At this juncture, Ld. Counsel for the Appellant submits that the Respondent No. 5 may be delated from the array of the parties. We have considered the submissions of Ld. Counsels for the parties. The Appellant is directed to delete the name of Respondent No. 5 from the array of the parties and is also directed to make necessary corrections in the Memo of Appeal. Ld. Counsel for the Respondents seek and are granted two-week time to file Reply Affidavit. Rejoinder, if any, may be filed within one week thereafter. Let the matter be fixed 'For Admission (After Notice)' on 25th August, 2021."

3. He has also submitted that the Applicant, who sought to be impleaded as Respondent No. 6, was also not a party before the Commission rather Respondent No. 6 is the company of Respondent No. 4 who has been saddled with the penalty.

4. Counsel for Respondent has thus submitted that the act of the Appellant is overreaching the Court, therefore, the application deserves to be dismissed with heavy costs.

5. On the other hand, while pressing this application, Counsel for the Appellant has submitted that both Respondents are necessary parties because the Respondents are the one who are misusing the

dominant position whereas Counsel for the Respondent has submitted that this not a case of Section 4 rather it is the case of Section 3(3) of the Act, 2022.

6. We have heard Counsel for the parties on this application and are of the considered opinion that the application is totally misconceived because Respondent No. 5, who was earlier party in the appeal and not a party before the Commission, was deleted by non-else then the appellant. It is really amusing as to how, with the change of counsel, the present application can be filed for seeking impleadment of the same party which was once deleted and the order dated 19.07.2021 was not challenged or recalled by the Appellant on the pretext that the statement suffered by the counsel at that time was incorrect. Secondly, Respondent No. 6 was also not a party before the Commission and on that analogy, on which the order dated 19.07.2021 was passed, disentitles the Respondent No. 6 to become a party in this appeal at the instance of the Appellant.

7. Having observed, thus, we are of the considered opinion that the present application is nothing else but an abuse of process of law and is also a waste of precious time of this Court, therefore, the same is dismissed with costs of Rs. one lac which shall be deposited by the Appellant in the Prime Minister Relief Fund within a period of 30 days from the date of passing of this order."

5. In view thereof, we do not find any merit in the application and hence, the same is hereby dismissed."

5. The order dated 05.12.2024 was challenged by the present Appellant in Civil Appeal No. 918-919 of 2025 before the Hon'ble Supreme Court which was upheld by the Hon'ble Supreme Court vide its order dated 27.01.205 which read as under:-

"1. Heard learned counsel appearing for the appellant(s).

2. We are not inclined to interfere with the impugned judgment and order passed by the National Company Law Appellate Tribunal (for short 'Tribunal').

> 3. However, it is directed that the payment of cost of Rs.01 lakh imposed upon the appellant by the Tribunal, shall be subject to the final outcome of the main appeal being Competition App.(AT) No.04 of 2021.
> 4. It goes without saying that parties shall be at liberty to raise their contentions, as may be permissible under the law.
> 5. Subject to the above, the Civil Appeals are disposed of.
> 6. Pending application(s), if any, shall stand closed."

6. On 08.08.2025, this court had passed the following order:-

> The only issue involved in this appeal is about the inadequacy of quantum of penalty imposed upon the Respondents herein. The Tribunal has referred to financial statements submitted by Respondent no. 2 in para 48 of the impugned order and has imposed the penalty of Rs. 2,00,000/- incidentally, the said financial statements are not attached with the present appeal. The appellant is directed to place on record the financial statements, submitted before the Commission, by way of an application with an advance copy to the Counsel for the Respondent, on or before the next date of hearing. List on 27.08.2025.

7. Counsel appearing on behalf of the Appellant has today submitted that he is not arguing on the inadequacy of the penalty imposed upon the Respondents but has a grievance that the companies, namely, Allied Publishers Private Limited being run by Sunil Sachdev and Vangiri Press by S.C. Sethi should have also been visited with some penalty.

8. He has submitted that though this plea has not been taken either in the facts or in the question of law in the appeal but in view of the observation made by the Hon'ble Supreme court in para 4 of the order dated 27.01.2025, the Appellant is entitled to raise this contention as well.

9. On the other hand, Counsel for Respondents have submitted that this plea cannot be allowed to be taken by the Appellant at this stage in the absence of companies being present before this court which are sought to be penalised by the Appellant by seeking an order of this Court. It is submitted that the Company being a juristic person shall have to be impleaded as party to defend itself but the Appellant has already failed to implead those companies in the present appeal when the order dated 05.12.2024 was passed and has been upheld by the Hon'ble Supreme court vide its order dated 27.01.2025.

10. In rejoinder, Counsel for the Appellant has submitted that an issue of law can always be raised by the Appellant during the pendency of the appeal and in this regard, he has relied upon a decision of the Hon'ble Supreme Court in the case of Yeswant Deorao Deshmukh Vs. Walchand Ramchand Kothari, 1950 SCC 766.

11. We have heard Counsel for the parties and perused the record with their able assistance.

12. On 08.08.2025 this court had passed the order to the effect that the only issue involved in this appeal is about the inadequacy of quantum of penalty imposed upon the respondents herein. At that time, Mr. Mr. Nisarg P. Khatri had appeared on behalf of the Appellant. Today, Mr. Mukherjee, Adv. has appeared who has submitted that the penalty imposed upon Mr. Sunil Sachdeva and SC Sethi is not sufficient as the penalty is also supposed to be imposed upon the companies, namely, Allied Publishers Private Limited and Vangiri Press which are being run by these two persons. This contention of the Appellant cannot be accepted in the absence of the said company before

this Court. The Appellant has earlier filed the application bearing I.A No. 1064 of 2024 and had also raised the same issue in I.A No. 1063 of 2024 but both the applications were dismissed and the said order has been upheld by the Hon'ble Supreme Court, therefore, this issue has been finally closed and cannot be raised again and again.

13. It is pertinent to mention that the company, Allied Publishers Private Limited was initially impleaded as Respondent No. 5 at the time of filing of the appeal but Counsel appearing on behalf of the Appellant made a statement before this Court for deletion of its name from the array of parties. In this regard, an order was passed which read as under:-

> "19.07.2021: Heard Ld. Counsel for the Appellant he submits that the CCI has passed the penalty which is not inconsonance with Section 27(b) of the Competition Act.
> Issue notice. Ld. Counsels for all Respondents accept notice.
> Ld. Counsel appearing on behalf of the Respondents No. 2, 3& 5 submit that the Respondent No. 5 was not a party before the CCI and he has wrongly been added as a Respondent No. 5.
> At this juncture, Ld. Counsel for the Appellant submits that the Respondent No. 5 may be delated from the array of the parties.
> We have considered the submissions of Ld. Counsels for the parties. The Appellant is directed to delete the name of Respondent No. 5 from the array of the parties and is also directed to make necessary corrections in the Memo of Appeal.
> Ld. Counsel for the Respondents seek and are granted two-week time to file Reply Affidavit. Rejoinder, if any, may be filed within one week thereafter. Let the matter be fixed 'For Admission (After Notice)' on 25th August, 2021."

14. It is really amazing that on the one hand the Appellant itself had got the company, namely, Allied Publishers Private Limited deleted from the array of the parties and on the other hand, the argument is being raised for imposition of the penalty on the said company.

15. Thus, in view of the aforesaid facts and circumstances, we do not find any merit in the submission made by the Appellant for imposition any kind of penalty upon the said two companies which are not before this court. No other point has been raised.

16. The appeal is therefore dismissed. No costs.

I.As, if any, pending are hereby closed.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

sc/rr