

## LEGAL UPDATES

### **MADRAS HC: CCI ORDERED DIRECTING PROBE INTO CARTELIZATION BY MRF, “ADMINISTRATIVE”, NOT APPEALABLE**

A writ appeal was filed by MRF Ltd. in Madras High Court against an order passed by a single Judge. The issue was the order of the Competition Commission of India (CCI) directing scrutiny into purported Cartelization and Price Parallelism by the Appellant needed no interference. The division bench comprising Justice T.V. Thamilselvi and Justice T. Raja heard the case. The appellant contended that: a) a representation was sent to MCA from All India Dealer’s Foundation and was passed on to CCI, claiming that when prices of natural rubber were high, the manufacturers of tyres increased the prices of tyres in a coordinated way, b) whereas when the prices of natural rubber decreased, domestic manufacturers did not reduce the prices and that’s how they got involved into cartelization and price parallelism, c) therefore, CCI directed Director General (DG) to start the investigation with an immediate effect in the scenario, d) eventually, Madras HC Single Judge proclaimed that the order as per Sec. 26(1) based on reference did not result in any kind of Civil repercussions because it was just an order for proceeding an investigation and not for affecting the interest of parties involved in any way. Relying on the Supreme Court judgement, in CCI v/s Steel Authority of India Ltd., the Court acknowledged that the order passed by CCI under Sec. 26(1) was non-compliant with the writ jurisdiction as it does not impact the rights of involved parties nor does it determine their obligation or right. It was further added that the order issued as per Sec. 26(1) is analytical, initial, and preliminary does not impact the rights of any involved party because of its managerial nature and does not cause any action, giving rise to any civil outcomes. The respective order passed by Commissioner under Sec. 26(2) was a final order which was only allowed for appeal. The HC observed the remarks about getting information or complaint via reference and ordering an investigation on it, assuming that prima facie thoughts were administrative actions into an initial phase. In this phase, any intervention would help the party in finding ways to escape from an investigation and that would leave behind the very objective that ought to be attained by the law/act. HC highlighted the fact that the investigation CCI ordered has already been undertaken and the

report created by the investigating officer has already been tabled before the Commission wherein all related parties took part in the proceedings before the Commission. HC opined that after receiving a final order, the distressed parties shall have to work things out in a way known and valid as per law. It was also specified that at the final phase, the Court should avoid making any such resolution that could bring out the result of exhibiting the system unusable in practice. The HC observed that the CCI has the power to investigate a new complaint each year under Sec. 27 of the Competition Act, which gives power to the CCI to give an adjudicatory order each year about cartelization. HC remarked that if CCI was inquiring about the complaint of 2008 that does not mean the same CCI cannot inquire about a fresh complaint next year against the same person may it be a trader, distributor, or producer. Madras HC concluded that there was no worth in the appeal and instructed DG and CCI to proceed in a lawful manner. Madras HC dismissed the writ appeal.