

LEGAL UPDATES

MADRAS HC: EXPLAINS THE POWERS OF THE CCI IN RELATION TO SECTORAL REGULATORS AND APPROVES THE INVESTIGATION INTO ELECTRICITY DISCRIMINATION IN THE DISTRIBUTION

A writ petition was filed by Tamil Nadu Electricity Generation and Distribution Corporation Ltd. (TANGEDCO) with an issue against the notice sent to TANGEDCO by the Competition Commission of India (CCI), before Justice S.M. Subramaniam of the High Court of Madras. Southern India Engineering Manufacturers' Association filed a complaint to CCI against TANGEDCO and found that TANGEDCO imposes discriminatory conditions on the sale of electricity. CCI instructed the Director General to investigate the matter and thereby, issued a notice to TANGEDCO to provide the necessary information and documents to aid the Director General's investigation. TANGEDCO argued that any complaint regarding the equal distribution of electricity, efficient power supply, and promoting competition can be entertained only by the Electricity Regulatory Commission, and therefore, CCI's issuing notice was without jurisdiction. The Competition Act itself is inapplicable to this complaint and the CCI has no power to entertain the case. HC observed that CCI had the power to entertain and initiate proceedings of a complaint regarding Sec. 4 of the Competition Act, 2002, and the Electricity Regulatory Commission had no powers to investigate this case. CCI was empowered to conduct an investigation and form a final opinion on the anti-competitive practices of TANGEDCO even though the instant complaint fell under the ambit of the Electricity Act. HC opined that the Court cannot intervene in an allegation that is yet to be investigated by the DG. The writ petition filed by TANGEDCO provided an opportunity to defend their case under the Competition Act and cannot be entertained as a challenge to the notice issued by CCI, Hence, the petition was dismissed.