

## LEGAL UPDATES

### **SC: IN THE PROCESS OF LOTTERY TENDERING CCI IS EMPOWERED TO INVESTIGATE INTO ANTI-COMPETITION FACTORS**

In a case decided by Mr A.K. Gupta, Ms S. Verma, and Mr B.S.Bishnoi, CCI rejected a complaint by informants, inter-alia, claiming Kerala State Beverages (Manufacturing and Marketing) Corporation Ltd ("KSBC/OP") violating sec. 4 of the Act by single-handedly deciding contract price for the distribution and purchase of branded alcoholic drinks in Kerala. CCI observed no prima facie violation of sec.4 of the Act. CCI remarked that OP is a monopolist entity authorised by statute, having sole distribution and purchase rights of branded alcoholic drinks in Kerala and hence OP is a dominant entity in Kerala. The adjudicatory authority further remarked that although OP is vested with monopolist rights by statute, those rights cannot be unabridged. Such exclusive rights cannot be absolute and need to strictly be within the governing laws. The division bench noted that since informants have failed to establish any loss suffered by manufacturers, KSBC cannot be held to be at fault. Commission also noted that the submission of KSBC that alcoholic beverage is a regulated commodity and hence its price cannot be fixed like other products and the cost of such alcoholic beverages also includes taxes and levies associated with the price of the beverages. Commission further noted that fixing the price of alcoholic beverages may take into consideration several other factors as well and found that KSBC is acting within its governing laws. Thus, the commission found no prima facie case against the tender floated by KSBC which may impact manufacturers/suppliers negatively. Thus, the CCI dismissed the case at hand and held no violation of sec.4 of the act.