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QUOTES FROM THE JUDGEMENT

UNFILTERED

Competition Commission of India v Schott Glass India Pvt Ltd & Anr

India's economic ascent rests on a delicate but decisive equilibrium. On the one hand, markets must remain contestable: no undertaking may extinguish rivalry by stratagems foreign to fair, merit-based competition. On the other hand, genuine achievement whether expressed in scale, efficiency or technological advance, must be rewarded and not punished, for it is the impetus for investment, innovation and consumer welfare.

Supreme Court of India

The Competition Act, 2002, is the charter that secures both pledges. It equips the Competition Commission of India with wide-ranging powers of inquiry and remedy, yet it permits intervention only where hard evidence shows that the impugned conduct has caused, or is likely to cause, a demand rigorous fact-finding, adversarial testing of testimony and, above all, an effects-based appraisal that balances commercial justification against proven harm. Preserving this symmetry between discipline and encouragement is essential if the statute is to nurture robust rivalry while sustaining the confidence of domestic and global investors who increasingly view India as a premier destination for enterprise and innovation.

Supreme Court of India

A perusal of Section 4(2)(a) of the Act implies that an abuse arises only where a dominant enterprise “directly or indirectly imposes unfair or discriminatory...price in purchase or sale”. As the words “unfair or discriminatory” import a comparative enquiry, it must first be established that transactions which are materially equivalent have been accorded materially different treatment. If the challenged differentiation rests on an objective commercial justification, or if it is open on identical terms to every purchaser similarly placed, the price cannot be stigmatised as abusive.

Supreme Court of India

Only unequal pricing for equal transactions contravenes Section 4(2)(a) of the Act.

To attract Section 4(2)(a) of the Act, it must be shown that transactions which are equivalent in every commercially relevant respect are nevertheless subject to dissimilar conditions.

Supreme Court of India

We hold that the slabbed target-rebate scheme:

(i). employs a neutral, volume-based criterion applicable to all purchasers alike

(ii). is objectively justified by demonstrable efficiency considerations; and

(iii). has not been shown to restrict rival output, limit imports or distort downstream prices.

Supreme Court of India

Section 4(2)(e) of the Act proscribes the use of a dominant position in one relevant market “to enter into, or protect, another relevant market.” The classical manifestation of this is the alleged margin-squeeze: a vertically integrated firm fixes the wholesale input price so high, and its own downstream price so low, that downstream rivals, though equally efficient, cannot earn a viable margin. Three cumulative conditions must therefore be shown:

(i). The respondent must itself operate downstream;

(ii). The wholesale-to-retail spread must be insufficient for an equally efficient competitor; and

(iii). The compression must threaten competitive harm.

Supreme Court of India

Manufacturing efficiency is a legitimate business consideration and has not been shown to harm consumers.

Supreme Court of India

Section 4 of the Act does not per se prohibit dominance; it prohibits the abuse of dominance. Abuse, by definition, is conduct that distorts the competitive process or harms consumers. The statute therefore contemplates two logically separate findings:

(i). that the impugned practice falls within one of the descriptive clauses (a)–(e) of sub-Section (2), and

(ii). that it results in, or is likely to result in, an appreciable adverse effect on competition ("AAEC").

To collate the second enquiry into the first would equate description with proscription and convert the provision into a strict-liability offence.

Supreme Court of India

We believe that three legislative signposts in the Act make the “effects requirement” explicit. Firstly, the Preamble records that the Act is enacted “to prevent practices having adverse effect on competition” (emphasis supplied). Secondly, a dominant position is defined in the Explanation to Section 4 of the Act as power that enables the enterprise “to affect ... the relevant market in its favour”; the inquiry is purposeless unless the decision-maker asks whether the challenged conduct has in fact been exercised to that effect. Thirdly, Section 19(4)(l) of the Act obliges the CCI, in analysing dominance, to consider the “relative advantage, by way of contribution to economic development,” thereby recognising that conduct which enhances consumer welfare may co-exist with market power and should not be condemned.

Supreme Court of India

The legislative history of the Act confirms the requirement. The Raghavan Committee Report (2000), which is the blueprint for the Act, framed the “key questions for adjudication on abuse of dominance” in terms that are unmistakably effects- orientated:
“How will the practice harm competition? Will it deter entry? Do consumers benefit from lower prices and greater availability?”. Parliament adopted that approach and nowhere does the enacted text suggest an irrebuttable presumption. This Court has also rejected rigid deeming rules even where the statute expressly presumes harm.

Supreme Court of India

The CCI’s own decisions acknowledge as much. In Indian National Shipowners’ Association v. ONGC, the CCI undertook a “fairness or reasonableness test” and exonerated the respondent upon finding objective necessity. Similarly, in Excel Crop Care (supra), it was held that an administrative body cannot, consistently with Article 14 of the Constitution, apply an effects test in some cases yet disclaim the power in others; such selective deployment is the antithesis of equal treatment.

Supreme Court of India

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Supreme Court of India

We therefore hold:

(i). that an effects-based analysis is an obligatory component of every inquiry under Section 4 of the Act;

(ii). that the CCI, having relied on untested statements and pre-2009 correspondence, Undertook no credible assessment of harm; and

(iii). that, on the evidence marshalled by the COMPAT, converter growth, stable downstream prices, absence of foreclosure – no appreciable adverse effect on competition is shown.

The omission of a proper harm analysis vitiates the CCI's order in limine.

Supreme Court of India

The Act entrusts the DG with inquisitorial powers of great breadth, but those powers are bounded by the fundamental rule that evidence adduced against a party must be open to challenge. Section 36(2) of the Act incorporates the Code of Civil Procedure's guarantees, including the right to "examine witnesses on oath" and to test them in cross-examination, while Regulation 41(5) of the 2009 General Regulations obliges the DG or the CCI to grant that opportunity whenever it is "necessary or expedient". Audi alteram partem is therefore woven into the statute itself.

Supreme Court of India

The CCI's "cherry-picking" of only inculpatory passages, while ignoring exculpatory statements such as the reply of Lisa Ampoules (DG Report, Reply to Question 11, Page 902), is precisely the mischief the law guards against.

Supreme Court of India

The CCI stand that it “relied only on data supplied by Schott India” cannot survive scrutiny. The “data” are summary tables compiled from the very statements whose reliability was in dispute. Without the underlying testimony, the tables are meaningless totals. The edifice therefore collapses unless the testimony passes the test of adversarial scrutiny. Moreover, the denial was not an innocent lapse is confirmed by later regulatory reform. In January 2024, Regulation 41(2) was amended to insert an explicit proviso stating that where the DG relies on oral evidence, he “shall offer” the opposite party an opportunity to cross-examine. The amendment reflects a legislative judgment that the right is indispensable and it underscores that the right existed in substance all along and was ignored here.

Supreme Court of India

We therefore record, in emphatic terms, that the proceedings before the DG and the CCI were procedurally defective in a manner that, by itself, could have warranted dismissal of the complaint at the threshold. The fact that the COMPAT and this Court have, for completeness, entered into an effects-based merits analysis does not water down that conclusion; it merely furnishes an independent foundation for the same result, ensuring finality should a higher forum take a different view on procedure.

Supreme Court of India

Competition law is not designed to humble the successful or to clip the wings of enterprises that have, through industry and innovation, secured a commanding share of the market. The true purpose of antitrust laws is to preserve the process of competition, i.e., to ensure that rivals may challenge the incumbent on the merits, that consumers enjoy the fruits of efficiency, and that technological progress is not stifled by artificial barriers. If mere size or success were treated as an offence, and every dominant firm exposed to sanction without tangible proof of competitive harm, the law would defeat itself: it would freeze capital formation, penalise productivity, and ultimately impoverish the very public it is meant to protect.

Supreme Court of India

In today's global economic climate, prudence is vital. As the United States and Europe retreat behind their newly-minted trade walls of protectionist policies to shield their homegrown markets, India's bid to emerge as a global centre for manufacturing, life-sciences and technology will succeed only if regulation rewards scale and intervenes solely when genuine competitive harm is shown. Heavy-handed enforcement, divorced from market effects, would discourage the long-term capital and expertise the economy urgently needs. An effects-based standard is therefore not a mere procedural nicety. It is both a constitutional bulwark against arbitrary restraint of lawful enterprise and a strategic necessity if India is to capture the opportunities that more protectionist economies are in danger of forsaking.

Supreme Court of India

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