

South Gujarat Warp Knitters Association v. Prafful Overseas Private Limited and Ors (2017 SCC OnLine CCI 15)

Decision Date: 09.03.2017

Key Words: *cartel; abuse of dominance*

Issue: Whether there was a cartel in existence and whether there was abuse of dominance?

Rule: Sec. 3 and 4 of the Competition Act, 2002

In the present case the Informant alleged that OP-1 and OP-2 have formed a cartel with respect to Nylon Fully Drawn Yarn (relevant product), a raw material for knitting. The informant supplied the CCI with information relating to sale prices of OP's and international prices. They argued that 1) the OP's were the only producers of this product, 2) that sale prices of Ops were not moving in tandem with international prices but were higher than that and 3) sale prices of the product were not moving in tandem with prices of Nylon Chips which is the raw material for the product.

First, the Commission rejected the allegations of cartel under Sec. 3, of the Act. It held that there are substitutes of the relevant product in the market thus the OP's are not the only producers. It held that comparison with international prices does not give any clear indication of a cartel when there is an anti-dumping duty on the relevant product. Furthermore it held that sale prices of the final product does not solely depend on the price of the raw material which is thus no indication for cartel behavior and finally that the sale prices of the OPs were also not following a pattern. For these reasons the CCI rejected the allegations of cartel formation against the OP's.

Further the informant also alleged that the OP-1 had a dominant position in the relevant market, which it abused by charging high prices. However the commission held that since there are numerous other players in the relevant market, OP-1 does not enjoy a dominant position thus no case under Sec. 4 can be made out.

In conclusion, the commission ordered the closure of the case under Sec. 26(2) of the Act.