(2025) 07 CCI CK 0423

In the Competition Commission Of India

Case No : Case No. 32 Of 2024

Grasim Industries Ltd. (Birla Paints Division) APPELLANT

Vs

Asian Paints Ltd RESPONDENT

Date of Decision : 01-07-2025

Acts Referred:

Competition Act, 2002 — Section 2(h), 4, 4(1), 4(2)(a), 4(2)(a)(i), 4(2)(b)(ii), 4(2)(b), 4(2)(c), 4(2)(d), 19(1)(a), 19(4), 26(1)

Citation : (2025) 07 CCI CK 0423

Hon'ble Judges : Ravneet Kaur Chairperson;Anil Agrawal, Member;Sweta Kakkad, Member;Deepak Anurag, Member

Bench : Full Bench

Final Decision : Disposed Of

Judgement

ORDER UNDER SECTION 26(1) OF THE COMPETITION ACT, 2002

1. The Information in the present matter has been filed by Grasim Industries Limited (Birla Paints Division) (‘Informant’) under Section 19(1)(a) of the Competition Act, 2002 (the ‘Act’) against Asian Paints Limited (‘OP’), alleging abuse of dominant position by the OP in contravention of the provisions of Section 4 of the Act.

2. The Informant is stated to be a flagship company of the Aditya Birla conglomerate and a publicly listed company on the National Stock Exchange and Bombay Stock Exchange. It is stated to be involved in several industries including manufacturing of man-made fibers, chemicals, etc. It is stated that at the end of last quarter of Financial Year (‘FY’) 2024, the Informant entered the decorative paints market in India under the brand name ‘Birla Opus Paints’ (except for the pre-launch of wood finish paint in June 2023).

3. The OP is stated to be the largest public company in the decorative paints market in India. It is said to have been established in the year 1942 and currently operating in 15 countries with 27 manufacturing facilities in the world.

It is stated to have been a market leader in the paints industry since 1967, and manufacturing paints for both decorative and industrial use.

4. The Informant has alleged that the OP, being an 'enterprise' within the meaning of the Act, has abused its dominant position, in the relevant 'market for manufacture and sale of decorative paints in the organized sector in India', by, inter alia:

(i) Offering additional/ extra discounts/ condonations/ incentives like foreign travel etc. to its dealers in exchange for exclusivity, which is arbitrary in nature and not linked to any uniform policy or based on performance/ sales of the dealer;

(ii) Exercising and enforcing de facto exclusivity upon dealers by threatening them against stocking the Informant's paints by, inter alia:

Ø Reducing the credit limit and revision of service levels for dealers that engage with the Informant;

Ø Increasing and enhancing sales targets for dealers engaging with the Informant and accordingly, recalling their benefits like foreign travel etc.;

Ø Reducing customer leads, termination of relations with institutional customers and taking other punitive actions like reduction in product offerings, low priority for servicing orders, opening competing dealerships in vicinity, etc., in the event the dealers engage with the Informant;

(iii) Directing its dealers to return/ not use or not install the tinting machines supplied by the Informant;

(iv) Restraining third parties, including suppliers of essential raw materials, from providing goods and services to the Informant;

(v) Coercing landlords, Clearing and Forwarding ('C&F') Agents and transporters to refrain from engaging with the Informant, restricting logistics and transportation of goods; and

(vi) Subjecting the Informant to a fake smear campaign etc.

5. Making the aforesaid allegations, the Informant has averred that the OP is indulging in violation of the provisions of Section 4(2)(a), 4(2)(b), 4(2)(c) and 4(2)(d) read with Section 4(1) of the Act, as follows:

(i) Section 4(2)(a) – Imposition of discriminatory and unfair conditions upon dealers in sale of decorative paints to not deal with the Informant;

(ii) Section 4(2)(b) – Limiting and restricting technical development of decorative paints market by restricting dealers from using more technologically advanced tinting machines of the Informant;

(iii) Section 4(2)(c) – Denial of market access to competitors like the Informant through input foreclosure; and

(iv) Section 4(2)(d) – Imposition of supplementary obligations upon dealers by offering incentives not related to performance.

6. Thereafter, the Informant also filed an Interlocutory Application ('I.A.') bearing no. 434 of 2024 on 27.12.2024 seeking urgent consideration of the Information as the anti-competitive conduct of the OP is significantly and adversely impacting its business operations.

7. The Commission, upon consideration of the Information in its ordinary meeting held on 29.01.2025, sought certain additional information from the Informant. The Informant filed its response to said order of the Commission on 06.03.2025.

8. The Commission considered the matter in its ordinary meeting held on 09.04.2025 and decided to pass an appropriate order in due course.

9. Meanwhile, on 05.06.2025 and thereafter on 09.06.2025, the Commission received an intimation from the OP, inter alia, seeking an opportunity to present its position before the Commission through an oral hearing, before any decision is taken in the matter.

10. The OP submitted that the Indian paint market is highly competitive comprising 09-10 players (including multi-nationals) and number of other regional entities. The decorative paints industry has low barriers to entry, which is evidenced by successful entry and rapid expansion of several new players in this market in the recent years. Further, it stated that paint products are distributed through a vast network of multi-brand dealers, including electrical, hardware, sanitary, PVC pipe, and cement shops. Also, a significant majority of paint dealers represent at least 2-3 paint companies, and nearly all also work with regional players.

11. The OP also stated that no other paint company has been able to scale up in the manner that the Informant has, since its entry in March 2024. As per the OP, the Informant has invested heavily in manufacturing and distribution, and recruited talent from across the industry, including from the OP. It has achieved gross revenue of INR 2,600 to 2,700 crores in its first year itself and as per its own internal estimates, became India's no. 3 decorative paint brand within just six (06) months of nationwide operations. By its own admission, the Informant has also been able to achieve a high single digit market revenue share in the decorative paints segment in the fourth quarter of Financial Year 2025 and also has the 2nd largest depot network in the industry. It has also been submitted by the OP that as per an Equity Research Report by Jefferies (May 2025), the Informant has established a network of approximately 50,000 dealers and an equal number of colour tinting machines, surpassing the reach of many long-established players. The OP has further submitted that leveraging its existing cement business, the Informant can access over 2,00,000 dealers nationwide, facilitating rapid expansion in its paint segment. Such rapid and substantial

growth of the Informant demonstrates absence of any significant entry barriers or anti-competitive conduct by existing players, including the OP. Reference has also been made by the OP to the Commission's earlier inquiry in the matter of JSW Paints Pvt. Ltd. and Another v. Asian Paints Ltd. (Case Nos. 36 of 2019 and 17 of 2021).

Enterprise

12. The Commission notes that the OP is a publicly listed company engaged in the business of manufacturing, selling and distribution of paints, coatings, products related to home décor, bath fittings and providing related services. As such, it is engaged in an 'economic activity', thereby qualifying it as an 'enterprise' within the meaning of Section 2(h) of the Act.

Relevant Market

13. As per the Informant's allegations, the broad relevant product market in the present matter is the 'market for manufacture and sale of decorative paints in the organized sector' and the relevant geographic market is 'India'. As such, the OP is alleged to be abusing its dominant position in the broad relevant market of 'market for manufacture and sale of decorative paints in the organized sector in India'.

14. In this regard, it is noted that in a previous matter involving allegations of abuse of dominance against the OP with respect to, inter alia, decorative paints' dealers i.e. JSW Order (supra) Paints Pvt. Ltd. and Another v. Asian Paints Ltd. (Case Nos. 36 of 2019 and 17 of 2021), the Commission had, in its order dated 08.09.2022, based on allegations made by another competitor of the OP i.e. JSW Paints, delineated the relevant market as 'market for manufacture and sale of decorative paints in the organized sector in India'. In the said order, the Commission had analysed in detail, the difference between industrial and decorative paints and had also distinguished the organised and unorganised paint sector. The Commission had also, in the said order, noted that the conditions of competition in the paint sector are homogeneous across India. Accordingly, the relevant market had been defined by the Commission as the 'market for manufacture and sale of decorative paints in the organized sector in India'. The relevant excerpts from the said order are as follows:

"42. The Commission notes that decorative paints and industrial paints constitute separate segments as there is a clear distinction between the two segments based on characteristics, intended use and price. Further, players in the unorganised sector do not appear to pose competitive constraints upon players in the organised sector due to various reasons such as brand image, difference in pricing, quality, etc. The Commission is in agreement with the DG's finding that consumer preference is still with leading brands, and the unorganised sector, even after the implementation of Lead Regulation 2016, does not pose any competitive constraints on manufacturers in the organised sector. The Commission also notes that the DG, despite stating that there is no organised sector and the distinction between organised sector and unorganised sector has blurred, finally concluded that the relevant product market in the present case has been delineated as "market for manufacturing and sale of decorative paints by the organised sector". As regards the relevant geographic market, the Commission is of the view that conditions of competition in the paint sector are homogeneous across India. Thus, the relevant geographic market could be defined as "whole of India". Accordingly, the Commission is of the opinion that the relevant market for the purpose of assessment in the present case is defined as "market for manufacture and sale of decorative paints by the organised sector in India."

15. As major allegations in the present matter are also with respect to decorative paints' market as in the JSW Order (supra), the Commission deems it appropriate to delineate the relevant market in the present matter also as the "market for manufacture and sale of decorative paints in the organized sector in India".

16. The Informant has also suggested a narrower relevant market as the 'market for supply of decorative paints through Category A dealers in India', distinguishing paint dealers into four categories A, B, C and D, based on the dealership size and amount of revenue the dealer generates for the paint manufacturer.

17. However, it is noted that such categorisation of dealers may or may not be a standard practice in the market followed by various paint manufacturers. Further, the allegations of abuse seem to have been made by the Informant qua dealers in general and not against any specific category of dealers only. Moreover, dealers seem to have been segregated into such categories based on their scale of operation and revenue. As such, they may move from one category to another from time to time based on their business at that point of time and their earnings. Also, from the consumers' perspective, consumers don't seem to distinguish between various categories of dealers while purchasing decorative paints. Keeping all this in mind, at this stage, the Commission finds no need to further narrow down the relevant market delineated in the present case.

Dominant Position

18. In the aforesaid delineated relevant market, the Commission had, in the JSW Order (supra), in 2022, based upon analysis of the factors mentioned under Section 19(4) of the Act, viz. market share of the enterprise, size and resources and economic power of the enterprise, entry barriers, market structure, and countervailing buying power, found the OP to be in a dominant position.

19. In the present matter, with respect to alleged dominance of the OP, the Informant has stated that the top three competitors (in terms of value of sales) in the decorative paints market in India are the OP, Berger Paints (previously, Jenson & Nicolson) and Kansai Nerolac (previously, Goodlass Wall Pvt. Ltd.), who have been long standing players that have been present for more than 70 years.

The Informant has stated that the last disruptor in the market was, in fact, the OP which had entered the market in 1942 and has since then become the incumbent dominant player, based on installed capacity, revenue generated from sales of decorative paints, market capitalisation, price-earning ('P/E') ratio etc. As per the Informant, the OP is the only entity having full control and influence on the decorative paints market with a consistent 60-year track record of being the market leader. The Informant has submitted that since the market conditions have not changed or evolved since the JSW Order (supra) passed by the Commission, the OP continues to enjoy a dominant position in the market for decorative paints in India till date.

20. The Informant has further stated that more than 60 years after being established, the OP continues to grow at a high pace. In the period between 2006 to 2024, the OP has grown at a Compound Annual Growth Rate ('CAGR') of 15%. Therefore, it continues to remain the undisputed market leader across India, with consistently high market share of well above 50% in the past decade based on the Informant's study of the annual reports of all the major paint manufacturers in India. As per the Informant's estimates, in 2024, the OP's market share in terms of revenue comes to around 53.2% with the market share of the next competitor (Berger) of around 14.2% and of the third competitor (Nerolac) of around 7.3% only.

21. As per the Informant, in terms of size and resources, the OP has an installed capacity of 1,850 Million Litres Per Annum ('MLPA') which, before the entry of the Informant, comprised more than 50% of the total industry capacity of 3,496 MLPA. By comparison, competitors such as Berger, Nerolac etc. have installed capacity of 728 MLPA and 329 MLPA, respectively. As per the Informant, the OP also has a market capitalisation of approximately INR 2.6 lakh crores, which has grown 47 times in the period between FY 2009 and FY 2024, with a current P/E Ratio of approximately 55 (peaking at approximately 105, in January 2021). Both its market capitalisation as well as its P/E Ratio are significantly higher than other domestic as well as international paint manufacturers. The OP also boasts a profit (after tax) of INR 5,321.55 crores as of FY 2024.

22. Further, as per the Informant, the OP has a significantly larger network of dealers comprising more than 1.6 lakh retail touchpoints and over 74,000 dealers (FY 2023-24), which is more than approximately 1.78 times as large as its next biggest competitor (i.e., Berger Paints, which has approximately 41,379 dealers).

23. Also, as per the Informant, the structure of the market for decorative paints in the organised sector in India is such that it features significant entry barriers and promotes concentration. Brands including new entrants face significant financial and technical entry barriers, which includes setting up of manufacturing plants and production of paint, as well as access to dealers which act as a bottleneck between a brand and the end-consumer. Establishment of manufacturing plants entails heavy expenditure on land, machinery, raw

materials, compliance with regulatory standards (environment and pollution), research and development etc. and as such, the relevant market for manufacturing and sale of decorative paints is capital-intensive and requires significant financial investment and involves substantial sunk cost including in setting up of production plants. Further, production of decorative paints involves complex processes that require technical expertise and significant investments into research and development. Also, the success of a brand is dependent upon the number of dealers, who are actively billing with such brand. The final sale to the end consumer is facilitated by the dealer either directly by a sale from the dealer or by way of intermediaries/ influencers such as contractors and designers, who influence the decision of the end consumer and bring them to the dealer. Thus, creating a dealer network for decorative paints in India is also one of the most significant entry barriers in the market and brands are constantly trying to onboard dealers because owing to present conditions of market structure in which incumbent and dominant players yield considerable influence, it takes time for a new brand to build relationship with the dealer. Further, tinting machines also need to be deployed by any brand at the dealerships to expand their presence and availability.

24. Therefore, as per the Informant, considering the above, clearly, the OP is in a dominant position in the suggested broad relevant market and due to presence of significant entry barriers, entry of a new entrant in such market is very difficult.

25. In this regard, the Commission notes that as per the Centre for Monitoring Indian Economy Pvt. Ltd.'s ('CMIE') database, the OP is the largest player in the paints and varnish market with a market share of 39.05% in 2022-23. It is also pertinent to note that the OP surpasses the next biggest competitor in the market by more than 03 times. The same is observed from the CMIE tabulation given below:

Rank	Company	2020-21	2021-22	2022-23
1	Asian Paints Ltd.	38.77	39.13	39.05

2

Berger Paints India Ltd.

12.28

11.97

12.13

3

Kansai Nerolac Paints Ltd.

9.32

9.25

8.53

4

Akzo Nobel India Ltd.

5.05

4.86

4.85

5

Nippon Paint (India) Pvt. Ltd.

2.67

2.7

2.87

6

PPG Asian Paints Pvt. Ltd.

2.28

2.21

2.3

7

JSW Paints Pvt. Ltd.

0.89

1.59

1.91

8

Indigo Paints Ltd.

1.55

1.43

1.39

9

Asian Paints PPG Pvt. Ltd.

1.14

1.26

1.33

10

Esdee Paints Ltd.

1.36

1.31

1.29

26. It is noted that the above data pertains to the broad segment of paints and varnish market and as such, the actual market share of the OP in the delineated relevant market is likely to be higher than that shown in the table above given its stronghold in the decorative paints market.

27. Based on the aforesaid detailed submissions made by the Informant with respect to the market share of the OP, as well as the market share of the OP garnered from the public domain, and keeping in mind the size and resources of the OP vis-à-vis its competitors, its considerably large dealer network leading to vertical integration, and entry barriers prevalent in the defined relevant market both in terms of financial resources and technical expertise, the Commission finds the OP to be prima facie in a position of dominance in the delineated relevant market, in 2024-25.

Abuse of Dominant Position

28. Once the OP has been found to be in a prima facie dominant position in the delineated relevant "market for manufacture and sale of decorative paints in the organized sector in India", the Commission now proceeds to analyse if there is any merit in the allegations of abuse made by the Informant which may warrant initiating an investigation in the present matter.

29. The Informant has made various allegations against the OP, the first amongst them being that the OP is exercising and enforcing de facto exclusivity upon

dealers by threatening them against stocking the Informant's paints by, inter alia, reducing their credit limit and revision of their service levels if they engage with the Informant, increasing and enhancing their sales targets if they are found to be engaging with the Informant and accordingly, recalling their benefits like foreign travel etc., reducing their customer leads, termination of their relations with institutional customers and taking other punitive actions against the dealers like reduction in product offerings, low priority for servicing orders, opening competing dealership in vicinity, etc., in the event the dealers engage with the Informant, etc., which, as per the Informant, amounts to imposition of unfair and discriminatory conditions upon such dealers in the sale of paint, in contravention of the provisions of Section 4(2)(a)(i) of the Act.

30. In this regard, the Informant has annexed with the Information and the response dated 06.03.2025, a Third-Party Market Survey conducted on its behalf, wherein some dealers of the OP have, inter alia, stated that in case they sell the Informant's brand, the OP resorts to one or more of the following practices:

(a) Reduces discounts offered to them;

(b) Revokes additional benefits provided to them;

(c) Changes their credit limits and causes issues with credit notes;

(d) Creates issues with supply and timely delivery;

(e) Increases sales targets for top products;

(f) Implements a stricter payment plan;

(g) Stops supplying or revokes exclusivity with respect to supply of premium products;

(h) Excludes the dealer from accessing the OP's exclusive deals;

(i) Revokes the dealers' Privilege Club membership or loyalty programme membership, despite meeting sales targets;

(j) Cuts off product deliveries to the dealer;

(k) Becomes less cooperative when processing rebates;

(l) Not respond to inquiries regarding material dispatch, availability, and other concerns like info on product margin etc.;

(m) Delivers additional materials to the dealer without prior discussion or consent;

(n) Stops providing previously provided contractor and local demand leads; and/or

(o) Threatens to cancel their dealership.

31. Further, in this regard, the Informant has also annexed with the Information

and the response dated 06.03.2025, affidavits of some of the Informant's employees relating to instances of the above-said conduct of the OP. In addition, the OP is stated to have engaged in negative publicity campaign against the Informant.

32. The Informant has also annexed as part of its evidence, an audio recording along with transcript thereof, of a conversation taking place allegedly between the Dealership Manager ('DM') and a dealer of the OP and the Informant, whereby the dealer informs the DM that it had to remove the board of the Informant due to pressure from the OP.

33. From the aforesaid material placed on record by the Informant, it prima facie appears that many dealers are facing issues with the OP enforcing exclusivity upon them by coercing them against stocking other manufacturers' paints including the Informant's paints by using various methods. In the opinion of the Commission, such conduct being indulged into by the OP prima facie amounts to imposition of unfair conditions upon dealers by the OP in the sale of decorative paints, in contravention of the provisions of Section 4(2)(a)(i) of the Act.

34. Secondly, the Informant has alleged that the OP has been directing its dealers to return/ not use or not install the tinting machines supplied by the Informant by adopting coercive tactics. This, as per the Informant, not only amounts to imposition of unfair and discriminatory conditions upon such dealers in the sale of goods in contravention of the provisions of Section 4(2)(a)(i) of the Act, but also leads to limiting and restricting technical development of the market to the prejudice of consumers in contravention of the provisions of Section 4(2)(b)(ii) of the Act, given the fact that the tinting machines of the Informant are far more advanced than those of the OP.

35. As per the Informant, the tinting machine installed at a dealer's store is the most critical component in the supply chain of the decorative paints industry. The dealers maintain a stock of certain base paints, along with colorants, which can be used to manufacture a variety of shades of paint, instead of storing all stock-keeping units of various colors, in the dealer's warehouse. The tinting machines, in turn, use the proprietary software and pre-determined colour formulations of the respective brand to provide the desired color/shade. As such, paint manufacturers are able to offer an extensive range of colour options due to the functionality of the tinting machines. Therefore, the tinting machine installed at a dealer shop by the brand can be seen as the final connecting point between the paint manufacturer and the end consumers.

36. Further, as per the Informant, it has developed a novel tinting machine, which has a significantly smaller physical footprint in comparison to other brands' tinting machines and comes equipped with a tab for operation and internet connectivity. The proprietary tinting software of the Informant's tinting machine also provides analytics to enable dealers in managing inventory.

37. In this regard, in the above-mentioned Third-Party Market Survey placed on

record by the Informant, several dealers of the OP have stated that they were asked/ forced to return the tinting machine of the Informant under pressure from the OP, as the OP offers extra incentives, additional discounts of 1% to 2%, and / or higher credit note for not keeping other brands' tinting machines. The Territory Sales Officers of the OP, by making excuses while releasing credit notes, indirectly urge the dealers to keep only OP's tinting machines. Further, if a dealer keeps any other brand's tinting machine, the OP will stop dealing with it or ensure through constant high stock keeping requirements that one does not have the capacity to deal with other brands or threatens to stop supplying their premium products if the dealer doesn't comply.

38. Some employees of the Informant have also stated on affidavit that they have knowledge of the OP forcing dealers to not stock the tinting machines of the Informant, by indulging in practices like revoking invitations for loyalty dealer program i.e. Privilege Club, or initiating punitive actions such as reduced credit line, access to exclusive products, discounts on products etc. It has also been stated that certain dealers have also returned the tinting machines of the Informant and communicated that they have done so at the behest of the OP.

39. The Informant has also given as part of its Information, a list of more than 100 dealers who have returned its tinting machines, allegedly under pressure from the OP.

40. From the aforesaid material placed on record by the Informant, it appears that many dealers have been discouraged from using other brands', especially the Informant's, tinting machines by the OP, which prima facie amounts to imposition of unfair conditions upon the dealers, in contravention of the provisions of Section 4(2)(a)(i) of the Act.

41. The Informant has alleged that such conduct of the OP also leads to limiting and restricting technical development of the market to the prejudice of consumers in contravention of the provisions of Section 4(2)(b)(ii) of the Act as the tinting machines of the Informant are far more advanced than those of the OP. However, since such averment of the Informant cannot be confirmed at this stage from the information available on record, the Commission refrains from expressing any opinion on such allegation made by the Informant, at present.

42. Thirdly, the Informant has alleged that the OP has been offering additional/ extra discounts/ condonations/ incentives like foreign travel etc. to its dealers in exchange for exclusivity, in an arbitrary manner not linked to any uniform policy or based on performance/ sales of the dealer, which amounts to imposition of supplementary obligations upon the dealers in contravention of the provisions of Section 4(2)(d) of the Act.

43. In this regard, in the Third-Party Market Survey placed on record by the Informant, some dealers have stated that in case they do not sell other brands, the OP provides discounts of 1-2% on the next purchase, advantages like Color Idea Stores, quick credit notes, higher incentives, gifts, relaxation in targets, etc.

However, if they sell the Informant's products, they are removed from the Prime Club which offers several incentivised benefits.

44. Further, some employees of the Informant have also stated on affidavit, about having knowledge of the OP offering incentives like opportunity to open 'Asian Paints Colour Idea Franchisee' store, leniency/ condonation in terms of growth criteria and other parameters in terms of eligibility, special deals and Annual Turnover Rebates, etc. or dealer loyalty program viz. 'MD Club' membership, in exchange for exclusivity.

45. From the aforesaid material placed on record by the Informant, it appears that the OP is not following any uniform policy in offering additional discounts/ condonations/ incentives to its dealers, which may be linked to the performance/ sales of the dealer prima facie amounting to imposition of discriminatory condition upon the dealers in contravention of the provisions of Section 4(2)(a)(i) of the Act and imposition of supplementary obligations upon them in contravention of the provisions of Section 4(2)(d) of the Act.

46. The Informant has also alleged that the OP has been restraining third parties, including suppliers of essential raw materials, from providing goods and services to the Informant, as well as coercing landlords, C&F Agents and Transporters, to refrain from engaging with the Informant, restricting logistics and transportation of goods. Such conduct of the OP has been alleged to be in contravention of the provisions of Section 4(2)(c) of the Act amounting to denial of market access to competitors like the Informant, through input foreclosure.

47. In this regard, the Informant has highlighted certain incidents whereby raw material suppliers were asked by the OP, in light of its countervailing buying power, to not to supply or supply at less favourable terms, key raw material ingredients to the Informant.

48. Further, an illustrative list of instances whereby the OP had allegedly coerced certain raw material suppliers, tinting machine manufacturers, warehouse owners, C&F Agents, and transporters to refrain from engaging with the Informant, has been given by the Informant.

49. In this regard, one of the employees of the Informant has also stated on affidavit the details of an incident whereby a warehouse owner was pressurized by the OP to not lease its another vacant warehousing space to the Informant. A translated transcript of the above-related voice note has also been provided by the said employee.

50. As evidence of the alleged conduct, the Informant has also annexed with the Information, screenshot of a message sent by one of the toll manufacturers to the Informant stating that it had received a call from the OP whereby it was indicated that in case it was found to be engaging with the Informant, the OP will cease all commercial arrangements with its establishment. In such a scenario, the manufacturer conveyed its inability to engage with the Informant, and rather

proposed an alternative point of contact for the Informant to avail toll manufacturing services.

51. From the aforesaid material placed on record by the Informant, it appears that the OP is restraining third parties like suppliers of essential raw materials, warehousing landlords, C&F Agents and Transporters, from engaging with the Informant, which prima facie leads to input foreclosure and amounts to denial of market access to competitors like the Informant, in contravention of the provisions of Section 4(2)(c) of the Act.

52. Lastly, the Informant has also alleged that it was subjected to a fake smear campaign by the OP in Srinagar in July 2024 to malign its' image in the market, giving details of the alleged incident, claiming confidentiality upon the details. However, it is noted that in regard to such alleged incident, an FIR in presently pending and as such, no action from the Commission is presently required.

53. In light of the above analysis, the Commission is of the opinion that a prima facie case of contravention of the provisions of Section 4(2)(a)(i), 4(2)(c) and 4(2)(d) of the Act by the OP is made out in the present matter. The OP, by way of restraining its dealers from dealing with the OP's competitors like the Informant and by enforcing exclusivity upon such dealers is imposing unfair conditions upon them, which is found to be in the nature of exploitative conduct. Further, by restraining suppliers of essential raw materials from providing goods and services to the OP's competitors like the Informant, as well as by coercing landlords, C&F Agents and Transporters to refrain from engaging with competitors like the Informant, the OP seems to be prima facie creating barriers to new entrants in the market as well as partially foreclosing competition in the market. Thus, the afore-detailed conduct of the OP seems to be prima facie causing an appreciable adverse effect on competition in India.

54. Accordingly, the Commission, in terms of the provisions contained in Section 26(1) of the Act, directs the Director General ('DG') to cause an investigation to be made into the matter and submit an investigation report within a period of 90 days of the receipt of the present order. At this prima facie stage, the Commission, in light of the material available on record, finds no reason to hear the OP before passing the present order.

55. Nothing stated in the present order shall tantamount to final expression of opinion on the merits of the case and the DG shall conduct the investigation without being swayed in any manner whatsoever by the observations made herein.

56. Before parting, it is noted that the Informant has claimed confidentiality over certain information used in the present order, under Regulation 36 of the Competition Commission of India (General) Regulations, 2024. However, it is clarified that the information disclosed in the present order shall not be considered confidential, as the same has been used and disclosed for purposes of the Act in accordance with the provisions of Section 57 of the Act.

57. The Secretary is directed to forward a copy of this order along with the Information received under Section 19(1)(a) of the Act, to the Office of the DG, forthwith. I.A. No. 434 of 2024 also stands disposed of.