

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO. 490/2017

IN

CIVIL APPEAL NO. s). 6691/2014

COMPETITION COMMISSION OF INDIA

APPELLANT (s) /
APPLICANT

VERSUS

CO ORDINATION COMMITTEE OF ARTIST
AND TECHNICIANS OF WEST BENGAL FILM
AND TELEVISION INDUSTRY

RESPONDENT (s)

O R D E R

This application is preferred by the Competition Commission of India seeking certain clarifications with regard to the judgment dated 07.03.2017 rendered in this appeal. The Competition Commission was concerned with the information received in respect of the agreement which was entered into between Co-ordination Committee of Artists and Technicians of W.B. Film and Television and it was to be decided as to whether such an agreement was indeed competitive agreement within the meaning of Section 3(3) (b). Clause (b) of sub-Section (3) deals with those agreements which limits or controls production, supply, markets, technical development, investment or provision of services. In that context the law on the aspect of 'relevant market' has also been discussed. It may be mentioned that though the Competition Commission had found the

agreement to be anti-competitive, the Appellate Tribunal had upset the order of the Competition Commission, against which the Appeal was preferred by the Competition Commission of India. This Court has restored the order of the Competition Commission of India thereby setting aside the judgment of the Appellate Tribunal. While doing so, the question of 'relevant market', was also considered and in para 30 of the judgment, the following question was formulated:

"It is for this reason, the first and foremost aspect that needs determination is: 'What is the relevant market in which competition is effect?'"

In the present application filed by the Competition Commission of India it is contended that an impression is given that the question of relevant market has to be determined in all types of cases under Section 3 of the Competition Act, which may not be the correct position. We find that our judgment dated 07.03.2017 needs some clarification in this behalf, which we hereby give in the following manner:

In paragraph 8 of the judgment, it is noted that sub-section (3) of Section 3 of the Act creates a legal presumption as to the appreciable adverse affect of competition whenever there exists agreements of the type enumerated in the said sub-section. It is also noted in paragraph 13 that the appreciable adverse affect on the competition is to be seen in the context of 'relevant market' as defined in Section 2(r) of the Act. Thereafter, question as to what would constitute 'relevant market' for the purpose of enquiry into the impugned activity of Coordination Committee has been

formulated and answered.

As mentioned above, the submission of the applicant is that though paragraph 8 of the judgment rightly records that anti-competition agreements listed under Section 3(3) are *per se* treated as adversely affecting the competition to an appreciable extent, the aforesaid reading of the issue in respect of 'relevant market' may give an impression that there is also a necessity to delineate relevant market in all such cases. We clarify that such delineation is not mandatory in terms of the statutory scheme of the Act, particularly having regard to the statutory presumption contained in Section 3 of the Act itself.

We, therefore, clarify the observations made in paragraphs 13, 30 and 32 of the judgment dated 07.03.2017, to the limited extent that the determination of 'relevant market' is not a mandatory pre-condition for making assessment of the alleged violation under Section 3 of the Act.

The application stands disposed of with the aforesaid clarification.

.....J.
[A.K. SIKRI]

.....J.
[ASHOK BHUSHAN]

NEW DELHI;
MAY 07, 2018.

ITEM NO.65

COURT NO.6

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

M.A. No. 490/2017 in C.A. No(s). 6691/2014

COMPETITION COMMISSION OF INDIA

Petitioner(s)

VERSUS

CO ORDINATION COMMITTEE OF ARTIST
AND TECHNICIANS OF WEST BENGAL FILM
AND TELEVISION INDUSTRY

Respondent(s)

(FOR ADMISSION and)

Date : 07-05-2018 This application was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s) Mr. Neeraj Kishan Kaul, Sr. Adv.
Mr. Naveen R. Nath, AOR
Mr. Abhimanyu Verma, Adv.
Ms. Akanksha Kaul, Adv.

For Respondent(s) Mr. Avijit Bhattacharjee, AOR(Not present)

UPON hearing the counsel the Court made the following
O R D E R

The miscellaneous application stands disposed in terms of the signed order.

(ASHWANI THAKUR)
COURT MASTER (SH)

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)