



In Re:

JHS Svendgaard Laboratories Limited
Through Mr. Nikhil Nanda, Managing Director
Address: B-1/E-9,
Mohan Co-operative Industrial Estate
Mathura Road, New Delhi - 110044

Informant

And

1. Procter and Gamble Home Products Limited,
P&G Plaza, Cardinal Gracias Road,
Chakala, Andheri (East), Mumbai
Opposite Party 1
2. Gillette India Limited,
SPA-65A, District Alwar, Bhiwadi Industrial Area
Bhiwadi, Rajasthan - 301019.
Opposite Party 2
3. Gillette Diversified Operations Private Limited,
34, Okhla Industrial Estate
New Delhi - 110020
Opposite Party 3

CORAM:

Mr. Ashok Chawla
Chairperson

Dr. Geeta Gouri
Member

Mr. Anurag Goel
Member

Mr. M. L. Tayal
Member

Mr. S. L. Bunker
Member

Order under Section 26(2) of The Competition Act, 2002

The present information had been filed by JHS Svendgaard Laboratories Limited ('**Informant**') under Section 19(1) of the Competition Act, 2002 (hereinafter referred to as the '**Act**') alleging anti-competitive



practices under Section 3(4) of the Act (the ‘Act’) by imposing exclusive supply and one-sided conditions on Informant by Procter and Gamble Home Products Limited (‘**Opposite Party 1/OP1**’), with respect to manufacture and supply of oral healthcare products i.e. toothbrushes, toothpaste and detergent powder.

2. Informant has claimed to be a manufacturer of various fast moving consumer goods (FMCG) on contractual basis for national and international brands. Informant also had two associate companies by name of Waves Hygiene Products and JHS Svendgaard Hygiene Products Limited. OP1 is one of the subsidiaries of Procter and Gamble Company, registered in the State of Ohio, USA with subsidiaries in more than 80 countries. The Informant alleged that P&G, was a market leader in different segments of FMCG and served over 650 million consumers in health, beauty and other segments. The Informant entered into three separate agreements with OP1, Gillette India Limited (OP2) and Gillette Diversified Operations Private Limited (OP3) for manufacture of detergent powder Tide, Oral B toothbrushes and toothpastes respectively.

3. OPs 2 and 3 have since been acquired by P&G group. The Informant contended that it made huge investments to improve its production capacity and infrastructure to cater to the order requirements of the OP1, as the Informant was assured, at the time of execution of agreements, that the contracts would be for a long duration of 7 to 10 years to ensure commercial benefits to both the parties. However, now OP1 had informed the Informant that it does not intend to renew the agreement for manufacture of detergent powder and toothbrushes.

4. The Informant had further contended that certain clauses i.e. clause 5.8 and 10.20 of the toothpaste agreement and clause 10 of the idling letter, were arbitrary and one-sided, restricting the ability of Informant, to freely conduct its manufacturing business.



8. The Commission considered all the material on record and the arguments addressed by the Informant.

9. In the present case, the Informant is a contract manufacturer. There can be no issue of abuse of dominant position by the OP1 vis-a-vis Informant. OP1's dominance, if any, in the market of toothbrushes, toothpastes and detergent powder has no concern with manufacturing contract between Informant and OPs. The Informant is a contract manufacturer and can take up manufacturing orders from any company/brand(s) at mutually agreed terms. Even though the informant and OP1 are at different stages of production, none of the agreements are of the nature as given in Section 3(4)(a) to (e) of the Act i.e. tie in arrangement, exclusive supply agreement, exclusive distribution agreement, refusal to deal and resale price maintenance. Hence, the terms of manufacturing agreement between the Informant and OP1 cannot be considered as violative of the provisions of Section 3(4) of the Act. Moreover, all the allegations have been made by the Informant on termination of agreement and refusal to renew the agreements between OP1 and Informant, which are contractual disputes and the remedy for the same lies elsewhere.

10. In view of the above discussion, there does not exist a prima facie case for causing an investigation to be made by the Director General under section 26(1) of the Act. It is a fit case for closure under section 26(2) of the Act and the same is hereby closed.

11. The Secretary is directed to inform the parties accordingly.

New Delhi
Date 19/11/2013

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(Dr. Geeta Gouri)
Member
Sd/-
(Anurag Goel)
Member



Sd/-
(M. L. Tayal)
Member

Sd/-
(S. L. Bunker)
Member