



**COMPETITION COMMISSION OF INDIA**

**Case No. 13 of 2018**

**In Re:**

**Singhal Industries Pvt. Ltd.**

Block No. 1547, Behind Mukat Pipes,  
Khatrej-Kalol Road, Village Moti Bhoyan, Tal-  
Kalol, Distt. Gandhinagar – 382721, Gujarat, India

**Informant**

**And**

**Sparco Multiplast Pvt. Ltd.**

704, Surmount Byzantine, Opp. ISKON Temple,  
Near Casela Tower, S.G. Road,  
Ahmedabad – 380015, Gujarat, India

**Opposite Party**

**CORAM**

**Mr. Devender Kumar Sikri**

**Chairperson**

**Mr. Sudhir Mital**

**Member**

**Mr. U.C. Nahta**

**Member**



**Justice G. P. Mittal**

**Member**

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

1. The information in the present matter was filed by Singhal Industries Pvt. Ltd. (hereinafter, the '**Informant**') under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, the '**Act**') against Sparco Multiplast Pvt. Ltd. (hereinafter, the '**Opposite Party**' / '**OP**') alleging contravention of the provisions of Sections 3 and 4 of the Act.
2. Facts as provided in the information, are as under:
  - 2.1 The Informant is a manufacturer of a wide variety of polymer products such as Warning Tape/Mat, PP Woven Bags, PP HDPE Plastic sheets, mesh bags *etc.* The Informant has claimed that it has been the first supplier of Warning Mat to Gas Authority of India Limited's ('**GAIL**') Optical Fibre Cable (OFC) Project. The Informant is also the approved vendor for many other companies for supply of Warning Tape and Warning Mat. The OP is also stated to be engaged in the manufacturing of Warning Mesh, a similar product, which is supplied to GAIL as well as other companies.
  - 2.2 The Informant has stated that its Warning Mat was initially used in GAIL's Jagdishpur Haldia pipeline project. Later on, the Informant's Warning Mat was replaced by the OP's Warning Mesh in the project. The Informant has also stated that Warning Mesh manufactured by the OP is an inferior product. In support of this allegation, the Informant has submitted a comparison chart of the two products explaining how



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Warning Mesh is much inferior in quality to Warning Mat and it does not meet the standard quality requirements as per Indian conditions.

- 2.3 The Informant has alleged that some influential people in GAIL along with outside consultants have submitted fake reports to get approval for the OP's product - Warning Mesh. When the Informant objected and informed GAIL about the product being inferior in nature, no action was taken. Later in the year 2017, GAIL's site team raised complaints about Warning Mesh stating that it is not suitable for the project. The site team also expressed the view that Warning Mat was much better. Similarly, in tender of Angul Dhamra Pipeline project, only Warning Mat was mentioned as the eligible product by Mecon Limited. However, subsequently, after 2-3 months, when the tender submission dates were near, an amendment was issued in which Warning Mesh was also mentioned in the tender for the project.
- 2.4 The Informant has also alleged that when Warning Mesh of the OP was supplied to GAIL's projects in U.P., Bihar and Kochi, the product was approved by a third party appointed by the OP itself. As per the Informant, the OP has created a monopoly by introducing an inferior product and getting the same approved in GAIL projects, which is causing loss to the Government.
- 2.5 The Informant has further alleged that the OP has made an attempt to monopolise the product by establishing a tie-up with French group companies namely, Corelco and Courant, which supply Warning Mesh manufacturing machine and Warning Mesh finished products, respectively. It has been alleged that these French companies have denied supply to the Informant due to the influence of the OP. The Informant has additionally stated that if his company would have imported the



machinery, it could have supplied Warning Mesh at Rs. 20 per meter for which the OP is currently charging between Rs. 45 and Rs 60 per meter.

- 2.6 Based on the aforesaid facts, the Informant has prayed that the OP be penalised and be asked to reimburse the loss caused to the Government.
3. The Commission, upon perusal of the information, notes that the allegation in the Information mainly relates to the procurement of Warning Mesh from the OP by GAIL instead of Warning Mat from the Informant, even though the Informant's product is of better quality. Additionally, it has also been alleged that the OP has entered into an agreement with two French companies, Corelco and Courant, for not supplying Warning Mesh manufacturing machine to any other company in India than the OP.
4. The Commission observes that the allegation of the Informant that the OP's product is of inferior quality and still been approved by GAIL is not sustainable because GAIL, as a consumer, has the freedom to choose and opt for a product that suits its requirements. Moreover, a supplier cannot be held responsible for anti-competitive conduct, if its product is chosen by the procurer after evaluating all alternative products available in the market. Therefore, the Commission finds that there is no competition concern made out in the matter of procurement of Warning Mesh by GAIL from the OP.
5. As regards the second allegation, the Commission notes that the Informant has not provided any material evidence which indicates that the OP has monopolised Warning Mesh production by way of an alleged tie-up arrangement or agreement with two French companies, namely Corelco and Courant. Perusal of the emails exchanged between these two companies and the Informant, submitted along with the information, indicate that these companies are not supplying their products in India at all. The information available on



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record also does not indicate any arrangement or agreement or understanding or action in concert between the OP and the aforesaid two French companies for not supplying their products in India. Therefore, the Commission finds that there is no evidence to establish violation of any of the provisions of Section 3 of the Act.

6. The Commission, further notes that the Informant has not given details with regard to the relevant market or dominance of the OP therein which is a prerequisite for analysis under Section 4 of the Act. However, even though details regarding relevant market and dominance have not been provided by the Informant, the Commission on its own, has examined these issues.
7. The Commission observes that Warning Mat and Warning Mesh are substitutable products. Both products are used in civil engineering industry to protect, identify, warn and locate pipes, cables and other buried services. Both are being used to protect the underground pipelines from third party excavators and their requirement is largely standardised and uniform across India. Accordingly, the Commission is of the view that the relevant market in the instant case, in terms of Section 2(r), 2(s), and 2(t) of the Act, is the *'market for warning mesh and mat used for protection of the underground pipelines in India'*.
8. As regards dominance of the OP in the said relevant market, the Commission observes that the information on record does not provide details of the market share of the OP. However, as per the data for the year 2016-17 available in Centre for Monitoring Indian Economy (CMIE) Prowess database, the OP is a much smaller company than the Informant in terms of its total sales and assets. Further, the information available in the public domain suggests that many other players are also operating in the relevant market. In such a situation, it seems unlikely that the OP would be having dominance in the relevant market.



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Thus, since dominance of the OP cannot be established, analysis of abuse of dominant position in the relevant market need not be looked into under Section 4 of the Act.

9. Based on the above analysis, the Commission is of the opinion that no case of contravention of the provisions either under Section 3 or Section 4 of the Act is made out against the OP in the instant matter.
10. In view of the foregoing, the matter is closed herewith in terms of the provisions of Section 26(2) of the Act.
11. The Secretary is directed to inform the Informant accordingly.

**Sd/-**  
**(Devender Kumar Sikri)**  
**Chairperson**

**Sd/-**  
**(Sudhir Mital)**  
**Member**

**Sd/-**  
**(U.C.Nahta)**  
**Member**

**Sd/-**  
**(Justice G. P. Mittal)**  
**Member**

**New Delhi**

**Dated: 19-06-2018**