

COMPETITION COMMISSION OF INDIA

10th June, 2010

M RTP Case- UTPE No. 129/2007

Ranamay Bhattacharjee Proprietor of M/s. Shankar Bhandar,
Adarsh Lok Part-II Shyama
Talkies Road Mangal Bazar,
P. O. & Distt. Katihar (Bihar)

... **Complainant**

1. Godrej Tea Ltd. (Tea Division)
Pirojshanagar, Eastern Express Highway,
Vikroli, Mumbai-1100079
2. M/s Jyothy Laboratories 43,
Shiv Shakti Industrial Estate,
A.K. Road, Marot,
Mumbai-110059

... **Opposite Parties**

ORDER UNDER SECTION 26(2) OF COMPETITION ACT 2002

The complaint was originally filed before the MRTP Commission by the complainant on 20.04.2007 and has been transferred to this Commission under section 66 of Competition Act, 2002.

2. As per the averments made in the complaint the complainant was the area stockiest of Godrej tea Ltd. and used to stock the tea leaves of various types for distribution. In the year 2004 also he stocked tea leaves worth Rs. 60,000/- for distribution but could not market the same as the Godrej Tea Limited stopped marketing of tea without any notice and the tea leaves worth about Rs 50,000/- turned rotten in godown. Further he stated that on contacting the Godrej tea division, he was advised vide letter dated 11.11.2005 to sell the stocks in the loose condition @ Rs. 65 per kg. The complainant could not act upon the advice of opposite party no. 1 as the tea leaves had already been badly damaged and were not in drinkable condition and therefore, selling of the same would have been an illegal act.

3. The Complainant further alleged that Godrej Tea Limited had handed over the tea division to M/s Jyothy Laboratories Industries, Estates without

informing the stockiest and also not taking any interest to settle the matter though two managers from M/s Jyothy Laboratories Industries Estates had assured to settle the matter very soon but no response has been received from them till the filing the complaint and complainant was facing huge economic loss in business.

4. The complainant prayed to direct the opposite parties for quick settlement.

5. In response to the probe letter of DG (I&R) the opposite party no. 2 filed the reply vide letter dated 22.10.2007 and enclosed the distribution agreement entered into between opposite party no. 1 and opposite party no. 2 and have also enclosed copy of memorandum of association and article of association of Jyothy Laboratories Ltd (OP no. 2).

6. During the pendency of the investigation the opposite parties settled the matter with the complainant and in pursuance of the settlement the complainant moved an application dated 29.10.2007 for withdrawal of the complaint. The relevant para of the application are being reproduced below:-

7. "That the complainant had accepted the amount offered by M/s Jyothy Laboratories Limited of Rs. 78,615/- (Rupees Seventy Eight Thousand Six Hundred and Fifteen Only) as full and final satisfaction of the claim of Rs. 50,000/- and for previous due of Rs. 5,843/- and wishes to withdraw the complaint filed against the opposite parties.

8. That there isn't any other claim pending against the opposite parties in respect of Godrej Tea. Further the damaged good viz. Tea Leaves in the complainant's Godown would be handed over immediately.

9. That the complainant hereby begs the Hon'ble MRTP Commission to treat the complaint as withdrawn".

7. DG (I&R) has observed that certain provisions (clause no. 1.1.10, 2.2a & 7.5 c (i)) of distribution agreement between Godrej Tea Limited (OP no.1) and Joythy Laboratories Ltd (OP no. 2) are restrictive in nature and violate the provisions of section 33 of MRTP Act 1969.

8. The Commission considered all the relevant material placed on record in the ordinary meeting held on 10.06.2010.

9. After examining the matter carefully it is seen that the only prayer which has been made by the complainant was to issue direction to the opposite party for settling the issue with the complainant and as per the facts narrated in the application of the complainant dated 29.10.2007 both the parties have settled the matter out of the court and in pursuance thereof the complainant has

received a sum of Rs. 78,615/- in full and final satisfaction of his claim. The complainant has sought the withdrawal of the complaint in view of the settlement between the parties. As matter has been amicably settled by the parties nothing survives in this complaint and matter deserves to be closed.

10. In view of the above forgoing discussion the matter is hereby closed.

11. The Secretary is directed to communicate the complainant accordingly.

Sd-
Member (A)

Sd-
Member (P)

Sd-
Member (A)

Sd-
Member (T)

Chairperson