

ITEM NO.21

COURT NO.17

SECTION XVII-B

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

Civil Appeal No(s). 4689/2026

ENNORE COAL TERMINAL PRIVATE LIMITED

Appellant(s)

VERSUS

COMPETITION COMMISSION OF INDIA & ORS.

Respondent(s)

FOR ADMISSION , IA No. 124629/2026 - STAY APPLICATION

Date : 27-04-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.V. VISWANATHAN
HON'BLE MR. JUSTICE VIPUL M. PANCHOLI

For Appellant(s) Mr. C. A. Sundaram, Sr. Adv.
Mr. Sonal Jain, AOR
Mr. Udayan Jain, Adv.
Mr. Abhishek Gupta, Adv.
Mr. Ranjan Mishra, Adv.
Ms. Kajal Sharma, Adv.
Mr. Harsh Jaiswal, Adv.
Ms. Amiti Gupta, Adv.
Mr. Prasad Uday Rane, Adv.

For Respondent(s) Ms. Charu Mathur, AOR

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

1. Heard Mr. C. A. Sundaram, learned Senior counsel for the petitioner and Ms. Charu Mathur, learned counsel for the respondent- Competition Commission of India (for short, 'CCI').
2. The proceedings arises out of an information by respondent no.2 - Tamil Nadu Power Producers Association alleging that the appellant (through its then predecessors - Chettinad International Coal Terminal Pvt.Ltd.(for short,

CICTPL') are abusing their dominant position with regard to port services, the result being, prices were increased excessively.

3. A further allegation was made that the dominant position was abused by coercing the consumers to use services of a third party coordinating and liaising agencies which in turn led to further increase in prices.

4. The appellant denied the allegations of dominant position and denied the abuse and submitted that there is no question of abuse since there was no dominant position, since there were competing ports at Krishnapatnam, Karaikal, Tuticorin and Gangawaram.

5. Allegations of coercion and imposition of pre-condition were denied.

6. Reports were called for from the Director General (for short, 'DG'), who submitted a main report and then supplementary report. By a majority opinion the CCI delineated the relevant market as "provision of coal terminal services in and around Kamarajar port".

7. While the original report of DG had exonerated the appellant, a supplementary report had found for the informants.

8. The CCI, however, differed with the DG, in the final order. The CCI, however, did not stop short of finding on dominance. It went ahead and examined the aspect of abuse also. This resulted in appeals and cross appeals to the National Company Law Appellate Tribunal (for short, 'NCLAT')

with the appellant challenging the observations on abuse and the respondent no.2 being the principal appellant challenging the finding on dominance.

9. The NCLAT examined the issue on the aspect of dominance and the aspect of abuse. The NCLAT at pdf 73 (page 55 para 135) found that the CCI erred in its finding in defining the relevant market under Section 2(r) of the Competition Act (for short, 'the Act') and agreed with the finding of the DG in the supplementary report. It thereafter examined the issue of dominance. The NCLAT at pdf 79 (page 61 para 149) found that the appellant being the only player, automatically became dominant and here again concurred with the finding of the DG in the supplementary report.

10. However, thereafter at pdf 87 (page 69 para 171), the NCLAT passed the following order:-

"171. Keeping all the facts into view and circumstances of this case and for the reason mentioned herein before, the Impugned Order passed by the CC does not stand the test of law and is required to be set aside. We set-aside the Impugned Order accordingly. The appeal is hereby allowed and the matter is remanded back to the CCI for deciding it afresh in accordance with law after providing an opportunity of being heard to the parties including all fresh evidence."

11. Learned Senior counsel for the petitioner submits that the remand is illusory since final findings have been recorded, not only on the aspect of relevant market but also on the aspect of dominance and abuse.

12. Learned Senior counsel for the petitioner submits that the CCI's view affirming the first report of the DG is the correct view.

13. Issue notice to the respondents, returnable on 18th May, 2026.

14. Till the next date of hearing, there shall be a stay of further proceedings before the CCI pursuant to the remand.

(NIRMALA NEGI)
ASTT. REGISTRAR-cum-PS

(MANOJ KUMAR)
COURT MASTER (NSH)