NATIONAL COMPANY LAW APPELLATE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

Competition App. (AT) No. 04 of 2022

(Arising out of the Order dated 21.10.2021 passed by the Competition Commission of India in Case No. 10 of 2021).

IN THE MATTER OF:

1. Confederation of Indian Alcoholic Beverage Companies
CIABC 16, ABW Rectangle One, D4-District Centre - Saket, New Delhi – 110017.

…Appellant No. 1

2. Association of Distillers, Brewers and Vintners of India
LG Floor, JNR City Centre 30, Rajaram Mohanroy Road Bangalore – 560027

…Appellant No. 2

Versus

1. Competition Commission of India
The Secretary, Competition Commission of India, 9th Floor, Office Block – 1, Kidwai Nagar (East), Opposite Ring Road, New Delhi – 110023.

…Respondent No. 1

2. Kerala State Beverages (Manufacturing and Marketing) Corporation Limited
KSBC Head Office, Bevco Tower, Palayam Vikas Bhavan, Trivandrum - 69 50 33, Kerala

3. Travancore Sugar and Chemicals Limited
Valanjavattom P.O.,
Thiruvalla - 689104, Kerala

…Respondent No. 2

Present:

For Appellants	Mr. Manas Kumar Choudhuri & Ms. Alisha Mehra, Adv.
For Respondents	Mr. Sanyat Lodha, for R-1/CCI. Dr. Shamsuddin, Ms. Bharti Rao, Mr. Muzakkar & Mr. Saifuddin Shams, for R-2 & 3.

J U D G E M E N T

(20 .05.2026)

NARESH SALECHA, MEMBER (TECHNICAL)

1. The present appeal has been filed by two appellants i.e. Confederation of Indian Alcoholic Beverage Companies ("**CIABC**"), who is Appellant No.1 herein and Association of Distillers, Brewers and Vintners of India ("**ADBVI**"), who is the Appellant No. 2 herein, under Section 53 (b) of the Competition Act, 2002 (the "**Competition Act/Act**") challenging the Impugned Order dated 21.10.2021 in Case No. 10 of 2021 passed by the Competition Commission of India under Section 26 of the Competition Act.

Competition Commission of India (**CCI**) is the Respondent No.1 herein.

Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, is a government corporation established under the Foreign Liquor Rules, 1953 (formulated under the Cochin Akbari Act, 1077 ("Akbari Act"), is the Respondent No.2 herein.

Travancore Sugar and Chemicals Limited, who is a government owned and controlled distillery, is the Respondent No.3 herein.

2. It has been stated that Appellant No. 1 was incorporated on 30.07.1998 as a non-profit public limited company under Section 25 of the Companies Act, 1956, now corresponding to Section 8 of the Companies Act, 2013. The Appellant No. 1 is an industry association representing alcohol beverage companies in India and companies closely associated with the Indian alcohol beverage industry and its members include both international and domestic companies engaged in several branded segments of the alcoholic beverage market. The Appellant No. 2 is an association representing large, small, and medium-scale distillers operating in the State of Kerala. We note that both Appellant No.1 and Appellant No.2 have pleaded on same facts and grounds, hence, we shall record their pleadings in conjoint manner and refer them collectively as the Appellants hereinafter.

3. It is noted that Kerala State Beverages (Manufacturing and Marketing) Corporation Limited, i.e. Respondent No. 2, is a government corporation established under the Foreign Liquor Rules, 1953, with exclusive control over procurement and wholesale distribution of alcoholic beverages in Kerala and the Respondent No. 3 is a government-owned distillery from which Respondent No. 2 procures alcohol along with other private manufacturers.

4. The Appellants submitted that on 29.04.2020, the Appellants filed information under Section 19(1)(a) of the Competition Act before Respondent

No. 1. The Appellants contended that the information clearly disclosed abuse of dominant position by Respondent No. 2 in the relevant market, namely the market for procurement and wholesale distribution of branded alcoholic beverages in the State of Kerala.

5. The Appellants stated that the information relied on the legal and regulatory framework governing liquor procurement in Kerala to show that Respondent No. 2 occupied a monopsony position, meaning it was the exclusive purchaser of alcoholic beverages from private manufacturers. The Appellants submitted that this position made Respondent No. 2 dominant in the relevant market, since private manufacturers had no meaningful alternative buyer for their products. The Appellants further relied upon the judgement of the Hon'ble Supreme Court of India in ***State of Kerala vs Maharashtra Distilleries Limited, (2005) 11 SCC 1*** to support the proposition that the State-controlled procurement structure itself established dominance.

6. The Appellants contended that Respondent No. 2 had abused its dominant position through a series of unfair and unilateral trade practices including unilateral fixation of purchase prices, arbitrary tender conditions, discriminatory treatment between government and private manufacturers, delayed payments, and the imposition of additional charges without justification. The Appellants further stated that these practices were not isolated instances but reflected a continuing pattern of coercive conduct arising from Respondent No. 2's dominant position.

7. The Appellants submitted that, in support of these allegations, it had placed before Respondent No. 1 sufficient documentary and circumstantial evidence to raise a prima facie case. The Appellants contended that the evidence included the tender issued by Respondent No. 2, representations made by private manufacturers to governmental authorities illustrative cost cards showing that supplies were being made loss, and comparison charts showing discriminatory margins and cash discounts between private and government brands. The Appellants further stated that the material on record also showed exit of private players from the market, thereby demonstrating harm to competition.

8. The Appellants submitted that despite strong evidence in form of substantive material, the CCI failed to direct an investigation under Section 26(1) of the Competition Act and instead closed the matter by the impugned order dated 21.10.2021. The Appellants contended that the impugned order incorrectly treated the prima facie stage as though it were a final adjudication on merits. The Appellants further submitted that the CCI not only declined investigation but also refused interim relief under Section 33, thereby leaving the allegedly abusive conduct unchecked.

9. The Appellants submitted that the relevant market must be understood as the market for procurement and wholesale distribution of alcoholic beverages in the State of Kerala. The Appellants stated that the relevant product market is not confined to one class of liquor, because Respondent No. 2 procures and

distributes various kinds of branded alcoholic beverages including beer, wine, IMFL, and foreign liquor. The Appellants further submitted that the relevant geographic market is Kerala since the liquor trade is controlled by the State within its territorial jurisdiction under the prevailing scheme.

10. The Appellants contended that Respondent No. 2 enjoys complete control over the supply chain because every private manufacturer must route supplies through it before reaching the retail level. The Appellants submitted that there is no direct access available to private suppliers for sales to retailers or consumers, as the procurement and wholesale system is centralized through Respondent No. 2. The Appellants further stated that around 311 retail outlets in Kerala are state-owned enterprises, out of which the overwhelming majority are controlled either directly or indirectly by Respondent No. 2, thereby reinforcing its control over the market.

11. The Appellants submitted that the CCI itself had acknowledged the monopsony nature of Respondent No. 2's position in the impugned order. The Appellants contended that once the CCI accepted that Respondent No. 2 was the exclusive purchaser and dominant actor in the market, it ought to have examined the challenged conduct of the Respondent No.2 under the standards applicable to dominant enterprises rather than closing the matter. The Appellants further stated that dominance brings with heightened duty of fairness and non-discrimination.

12. The Appellants submitted that Respondent No. 2 fixes purchase prices unilaterally and without meaningful consultation with private manufacturers. The Appellants contended that although manufacturers may submit a basic price in their offers, the final decision lies entirely with the Board of Directors of Respondent No. 2, as reflected in Clause 11(c) of the Tender, which makes price fixation and related commercial terms wholly one-sided and gives Respondent No. 2 final, unchallengeable authority.

13. The Appellants contended that the purchase prices fixed by Respondent No. 2 bear no rational nexus with the cost of production submitted by private manufacturers. The Appellants submitted that the illustrative cost cards annexed to the information given to the CCI showed a clear mismatch between actual production cost and the purchase price imposed by Respondent No. 2. The Appellants further stated that raw material costs had increased substantially over time, but the contract rates had increased only marginally, thereby causing persistent losses or severely reduced margins to private suppliers.

14. The Appellants submitted that Respondent No. 2 does not engage in genuine negotiation over prices, but instead exercises undue coercive power over manufacturers who have no alternative buyer. The Appellants contended that such conduct amounts to unfair and discriminatory price fixation within the meaning of Section 4(2)(a)(ii) of the Competition Act. The Appellants further stated that

the absence of alternative market access makes the conduct especially oppressive and anti-competitive.

15. The Appellants submitted that the tender structure itself is designed in a manner that favors Respondent No. 2 and burdens private manufacturers. The Appellants contended that the tender allows Respondent No. 2 to extend validity for indefinite periods and compel manufacturers to continue supplying at outdated rates. The Appellants further stated that the periodicity of tenders is arbitrary, delayed, and not based on any transparent commercial necessity.

16. The Appellants also submitted that the tender contains numerous unfair, vague, and unilateral clauses that vest excessive control in Respondent No. 2. The Appellants contended that Clause 19(e), read with Clause 7 of tender, allows the imposition of undefined penalties at the discretion of the Board, which is inherently arbitrary. The Appellants further stated that several clauses grant Respondent No. 2 the power to accept or reject offers without reasons, modify contract terms unilaterally, decide quantities to be sourced, and levy penalties without any proportionate safeguards.

17. The Appellants submitted that these clauses are not merely harsh commercial terms but are abusive because they are imposed by a dominant monopsony buyer on suppliers with no alternative bargaining power. The Appellants contended that a dominant enterprise has a special obligation to ensure that the contractual framework is not exploitative, discriminatory, or

exclusionary. The Appellants further stated that the presence of such one-sided clauses itself warranted investigation, regardless of whether each clause had yet been implemented.

18. The Appellants submitted that Respondent No. 2 grants preferential treatment to government brands over private brands in multiple ways. The Appellants contended that this preference is visible in price increases, wholesale margins, cash discounts, and unloading priority at depots. The Appellants further stated that government brands also receive better visibility and marketing support in retail outlets, which strengthens their position downstream.

19. The Appellants contended that the discrimination has no clear economic, commercial, or legal justification. The Appellants submitted that no credible policy document was produced to show why government brands should receive preferential treatment over private brands. The Appellants further stated that even if some policy existed, it could not justify discrimination that results in competitive distortion, denial of fair market access, or exclusionary effects on private brands.

20. The Appellants also submitted that the discriminatory treatment between government and private brands is inconsistent with competition law principles and constitutional equality norms. The Appellants contended that once the State allows trade in liquor, it cannot act arbitrarily or selectively favor one class of suppliers without lawful justification. The Appellants further relied on judicial

precedents to submit that state agencies engaged in commercial activity are not immune from scrutiny under competition law.

21. The Appellants submitted that Respondent No. 2 levies highly discriminatory cash discounts, including 7.75% for ranked brands and 21.75% for non-ranked brands. The Appellants contended that the classification between ranked and non-ranked brands is itself determined unilaterally by Respondent No. 2 and lacks transparent criteria. The Appellants further stated that newer brands are especially burdened because they are usually treated as non-ranked brands and subjected to heavier deductions.

22. The Appellants submitted that the very logic of a cash discount is to incentivize or compensate for timely payment, but Respondent No. 2 often pays belatedly while still deducting such amounts from invoices. The Appellants contended that if payments are delayed beyond the contractual timeline, the manufacturer should logically be compensated rather than penalized. The Appellants further stated that the deduction of cash discount in these circumstances has no quid pro quo and amounts to an unfair extraction by a dominant buyer.

23. The Appellants submitted that Respondent No. 2 issued a circular agreeing to pay unloading charges to headload workers on behalf of private manufacturers, pursuant to which manufacturers made advance deposits. The Appellants contended that despite having already recovered unloading charges through the

advance deposit, Respondent No. 2 later began deducting an additional 10% under the label of administrative charges. The Appellants further stated that this additional deduction was made without any rational basis or contractual authority.

24. The Appellants submitted that this conduct demonstrates the continuing abuse of dominance by Respondent No. 2. The Appellants contended that the impugned order wrongly overlooked this fresh and continuing instance of unilateral conduct. The Appellants further stated that Respondent No. 2's conduct after the impugned order, including insistence on advance excise duty payments, showed the need for immediate regulatory scrutiny.

25. The Appellants contended that Respondent No. 1 committed a serious error by examining the allegations as though it were deciding the final merits of the dispute rather than merely whether a prima facie case existed. The Appellants submitted that at the threshold stage, the CCI was only required to determine whether the information disclosed sufficient facts to warrant investigation. The Appellants further stated that instead of directing investigation, the CCI weighed evidence, accepted Respondent No. 2's explanations, and drew conclusions that should only have emerged after the DG inquiry.

26. The Appellants submitted that the impugned order also wrongly distinguished and ignored binding and persuasive precedents such as *International Spirits and Wines Association of India vs Uttarakhand Agricultural Produce Marketing Board (Case No.2 of 2016)*, *and North East Petroleum*

Dealers Association vs Competition Commission of India and Others (COMPAT Appeal No.51 of 2014). The Appellants contended that the principle emerging from those cases is that the CCI must not shut out investigation when the information discloses a plausible abuse of dominance. The Appellants further stated that the impugned order's approach defeats the very scheme of the Competition Act.

27. The Appellants submitted that Section 18 of the Competition Act imposes a statutory duty upon Respondent No. 1 to prevent anti-competitive practices, promote competition, safeguard consumer interests, and ensure freedom of trade. It was further contended that Sections 36(1) and 36(2), read with Sections 60 and 61 of the Competition Act, provide a comprehensive framework enabling the CCI to investigate allegations under Chapter V and pass a reasoned order on merits. The Appellants argued that despite the presence of corroborative evidence against Respondent Nos. 2 and 3, the Appellants have been left without any effective remedy to address the economic harm suffered.

28. The Appellants further submitted that the CCI has acted inconsistently compared to its approach as in similar cases, where the CCI had taken cognizance of analogous unilateral conduct, including directing investigation under Section 26(1) and finding violations under Section 4. It was contended that such inconsistency violates the principle of judicial discipline as laid down in Bihar State Government Secondary School Teachers Association v. Bihar Education

Service Association (2012) 13 SCC 33, which mandates uniformity in decisions involving similar facts. The Appellants argued that the impugned order departs from these settled principles and is therefore unsustainable.

29. The Appellants also submitted that the CCI erred in assuming that no abuse was made out merely because losses were not conclusively quantified at the information stage. The Appellants contended that the purpose of an investigation is precisely to determine the scale, effect, and mechanics of the alleged abuse. The Appellants further stated that the CCI could not require the Appellants to prove the case to the hilt before directing an inquiry.

30. Concluding arguments, the Appellants requested this Appellate Tribunal to set aside the Impugned Order and allow the appeal.

31. The Respondent No. 1 submitted that Order dated 21.10.2021 passed by the CCI under Section 26(2) of the Competition Act, 2002, whereby the Information dated 29.04.2021 filed by the Appellants came to be closed upon a categorical finding that no prima facie case of contravention of Section 4 of the Act was made out.

32. The Respondent No. 1/CCI submitted that the Information was filed under Section 19(1)(a) of the Competition Act by the Appellants alleging abuse of dominant position by Respondent No. 2 and Respondent No. 3 in the alleged relevant market concerning wholesale procurement and distribution of branded alcoholic beverages in the State of Kerala. It is contended that while the CCI, for

the limited purpose of prima facie assessment, delineated the relevant market as "market for wholesale procurement and distribution of branded alcoholic beverages in the State of Kerala" and observed the dominance of Respondent No. 2 therein, the existence of dominance per se is not prohibited under the Competition Act, and what is required to be established is abuse of such dominance resulting in an appreciable adverse effect on competition.

33. The CCI further submitted that the core allegations of the Appellants relating to unilateral determination of purchase prices were thoroughly examined in the Impugned Order. It is contended that the price fixation mechanism adopted by Respondent No. 2 is based on a structured and transparent process wherein manufacturers themselves submit detailed cost sheets, duly certified by chartered accountants, containing granular break-up of costs including prime cost, factory cost, administrative overheads, cost of production, selling and distribution overheads, cost of sales, profit margins, and selling expenses. The CCI contended that such cost-based price discovery negates any allegation of arbitrariness or unfairness, as the procurement price is determined after due consideration of all relevant cost components furnished by the manufacturers themselves.

34. The CCI submitted that the allegation regarding arbitrary periodicity of tenders and delayed revision of prices was also found to be unsubstantiated. It is contended that although the Appellants alleged that revision of prices occurs with a lag of approximately 3 to 5 years and that costs of production have increased

by over 150% in the last decade while price increase was only about 30%, no empirical evidence, financial data, or documentary proof was placed on record to demonstrate actual losses suffered by manufacturers. The CCI further contended that the continued participation of multiple manufacturers in the procurement process clearly indicates commercial viability, and no evidence was furnished to show exit of any manufacturer from the market on account of alleged unviability.

35. The CCI further contended that the pricing and procurement of alcoholic beverages occur within a highly regulated statutory framework, wherein prices are intrinsically linked to taxes, levies, and state policy considerations. It is submitted that the State and its instrumentalities are entitled to exercise control over pricing in such regulated sectors, provided such control is exercised within the framework of law and policy. The CCI submitted that Clause 11(c) of the Rate Contract, dealing with price control, does not prima facie amount to abuse of dominance, and it is not within the domain of the competition authority to determine the appropriate price in such circumstances.

36. The CCI contended that the reliance placed by the Appellants on the decision in the *International Spirits and Wines Association of India v. Uttarakhand Agricultural Produce Marketing Board (Case No. 2 of 2016)* ("International Spirits case") is wholly misplaced. It is submitted that the said case involved substantial material evidence demonstrating deviation from state excise policy and distortion of supply dynamics, whereas in the present case, no

such material was furnished. The CCI further submitted that the factual matrix, regulatory framework, time period, and evidentiary basis in the two cases are entirely distinct, and therefore, no parity can be drawn.

37. The CCI submitted that the allegations regarding preferential treatment to Respondent No. 3 were also examined and found to be untenable. It is contended that while a preference was accorded, the same was based on an explicitly declared policy incorporated within the tender conditions and justified on grounds of public interest. The CCI further contended that Respondent No. 3 supplies only a single product, namely "Jawan Rum" of 1000 ml, whereas numerous other manufacturers supply multiple brands. It is submitted that the Appellants failed to demonstrate any distortion of competition, impairment of consumer choice, or adverse impact on market dynamics arising from such preference.

38. The CCI further submitted that the allegation concerning differential cash discounts ranging between approximately 7% to 22% was also devoid of merit. It is contended that such discounts are applied on wholesale prices determined through the cost-based mechanism and are structured based on commercial considerations such as sales velocity of brands. The CCI submitted that lower discounts for fast-moving brands and higher discounts for slow-moving brands are rational and partly compensate distribution costs. It is further contended that no evidence was placed on record to establish that such discount structures

resulted in discriminatory treatment, financial loss, or impairment of the competitive ability of any manufacturer.

39. The CCI submitted that the challenge to various tender clauses as being unilateral and unfair was also rightly not entertained in detail, as the principal allegations of abuse were themselves found to be unsustainable. It is contended that, in any event, no material was placed to demonstrate that such clauses were implemented in a manner detrimental to manufacturers over the years.

40. The CCI contended that Respondent No. 3 had no role in the alleged anti-competitive conduct, and its involvement was limited to being a beneficiary of the procurement terms framed by Respondent No. 2. It is submitted that no independent conduct attributable to Respondent No. 3 was demonstrated to attract the provisions of Section 4 of the Act.

41. The CCI further submitted that the allegation regarding deduction of 10% unloading charges as administrative charges was raised belatedly after reservation of orders and was unsupported by cogent material. It is contended that apart from a theoretical calculation and a tabular annexure, no evidence was provided to establish that such deductions were contrary to the agreed contractual terms governing the rate contract.

42. The CCI submitted that the statutory scheme under Section 26 of the Act mandates formation of a prima facie opinion based on material placed on record, and in the absence of sufficient evidence, the CCI is empowered to close the

matter under Section 26(2) of the Competition Act without initiating investigation. It is contended that at this stage, the CCI is not required to undertake a detailed adjudicatory exercise or evaluate evidence in depth.

43. The CCI further contended that Informants bear a corresponding duty to furnish complete, accurate, and substantiated information. It is submitted that the Appellants failed to discharge this obligation, as the Information filed lacked concrete data regarding costs, margins, alleged losses, price distortion, or impact on market share. The CCI contended that in the absence of such foundational material, no prima facie opinion of abuse could have been formed.

44. The CCI submitted that ample opportunities were granted to the Appellants to supplement their submissions pursuant to directions issued on 15.06.2021, including the opportunity to file comments on the responses of the Opposite Parties. It is contended that despite such opportunity, no additional material evidence was furnished by the Appellants to substantiate their claims.

45. The CCI further contended that settled legal position, as laid down in judicial precedents, mandates that a prima facie case must be based on credible material indicating possible contravention and resultant harm to competition. It is submitted that mere assertions, conjectures, or hypothetical calculations cannot satisfy this threshold.

46. The CCI submitted that the Impugned Order correctly records that the allegations were general, vague, and unsupported by documentary evidence, and

therefore, the closure of the Information was justified and in consonance with established legal principles and decisional practice.

47. Concluding arguments, the CCI requested this Appellate Tribunal to dismiss the Appeal.

48. Per contra, the Respondent No. 2 & 3 denied all averments made by the Appellants as misleading and baseless.

49. The Respondent No. 2 & 3 submitted the appellants have approached this Appellate Tribunal in a representative capacity without placing on record any authorization, consent, or power of attorney from the entities whom they claim to represent. The Respondent No. 2 & 3 further submitted that in the absence of such authorization, the appellants cannot be permitted to maintain the present proceedings, as it is a settled principle that a representative body must demonstrate its authority through cogent documentary evidence. The failure to do so strikes at the root of the maintainability of the Appeal.

50. The Respondent No. 2 & 3 contended that the appellant has also failed to disclose the composition, membership structure, and financial framework of their organizations. It is submitted that no documents such as membership lists, resolutions, or agreements have been placed on record to substantiate their claim of representing various alcoholic beverage manufacturers. In such circumstances, Respondent No. 2 & 3 submitted that the Appellants have not established their

locus standi and are merely acting as self-appointed representatives without any legal backing.

51. The Respondent No. 2 & 3 further submitted that the Appellants themselves claim to represent both domestic and international alcoholic beverage companies and entities acting in furtherance of foreign commercial interests cannot be permitted to challenge the regulatory and socio-economic policies of a State Government, particularly in a highly sensitive and regulated sector such as alcohol. The Respondent No. 2 & 3 submitted that the Appellants have failed to demonstrate how they qualify as "any person" under the Competition Act in the context of the present dispute.

52. The Respondent No. 2 & 3 submitted that the present Appeal is an attempt to interfere with valid and subsisting contractual arrangements entered into between Respondent No. 2 and various manufacturers. It is contended that all manufacturers supplying liquor in the State of Kerala operate strictly under rate contracts executed with Respondent No. 2, which govern pricing, procurement, and supply. The Respondent No. 2 & 3 further submitted that none of these contracts have been challenged by the contracting parties themselves, and therefore, a third party cannot be permitted to interfere with such arrangements.

53. The Respondent No. 2 & 3 contended that it is a settled principle of law that a stranger to a contract cannot seek to invalidate or question its terms. It is submitted that the Appellants, who are not a signatory to any of the contracts, are

attempting to disrupt a lawful contractual framework under the guise of public interest.

54. The Respondent No. 2 & 3 further submitted that the conduct of the Appellants clearly demonstrates forum shopping and multiplicity of proceedings. It is contended that the Appellants have approached multiple fora, including the CCI and the Hon'ble High Court of Kerala, on substantially similar issues. The Respondent No. 2 & 3 submitted that such parallel proceedings, coupled with inconsistent reliefs sought before different forums, amount to abuse of judicial process.

55. The Respondent No. 2 & 3 contended that the Appellants have taken contradictory stands in different proceedings. It is submitted that while before the Hon'ble High Court the Appellants have challenged alleged preferential treatment whereas before this Appellate Tribunal, they are advocating for free pricing mechanisms. The Respondent No. 2 & 3 submitted that such inconsistent positions on the part of the Appellants reveal self-serving approach aimed solely at enhancing profits, rather than addressing any genuine competition concern.

56. The Respondent No. 2 & 3 submitted that they are fully State-owned entities functioning under the control and policy directions of the Government of Kerala. It is contended that Respondent No. 2, namely Kerala State Beverages (Manufacturing and Marketing) Corporation, was established following the tragic Vypin liquor incident of 1982, which resulted in the death of approximately 100

persons due to consumption of spurious liquor. The Respondent No. 2 & 3 submitted that the establishment of the Corporation was a policy measure aimed at ensuring public safety and preventing recurrence of such tragedies.

57. The Respondent No. 2 & 3 further submitted that since their establishment, the State has not witnessed any major incidents of spurious liquor-related fatalities, which demonstrates the effectiveness of the regulatory framework. It is contended that Respondent No. 2 operates not only as a profit-maximizing entity but also as a regulatory mechanism to ensure quality control and safe distribution of liquor. The Respondent No. 2 & 3 submitted that the role of Respondent No. 2 is limited to wholesale procurement, and it does not control the entire distribution chain. It is contended that retail distribution is carried out through a large network of bars, wine parlours, and licensed vendors across the State, thereby ensuring that there is no complete monopoly or market foreclosure. The Respondent No. 2 & 3 further submitted that the regulation of alcohol falls exclusively within the domain of the State Government under Entry 8 of List II of the Seventh Schedule to the Constitution of India. It is contended that the State has full authority to regulate the manufacture, distribution, and sale of liquor in accordance with its policy objectives.

58. The Respondent No. 2 & 3 submitted that the State policy is also guided by Article 47 of the Constitution, which mandates the improvement of public health and reduction of consumption of intoxicating substances. It is contended

that the policies framed by the Government of Kerala seek to balance revenue considerations with public welfare objectives. The Respondent No. 2 & 3 further submitted that the Appellants cannot challenge such constitutionally valid policies merely on the ground these they affect profit margins of private liquor manufacturers. It is contended that economic policy decisions are taken in public interest and cannot be interfered with unless they are arbitrary or unconstitutional.

59. The Respondent No. 2 & 3 submitted that the Abkari Policy 2022–2023 introduced by the Government of Kerala is a progressive and reform-oriented policy. It is contended that the policy encourages new entrants, promotes local production including low-alcohol beverages, and seeks to improve accessibility and transparency in the market. The Respondent No. 2 & 3 further submitted that the policy has been welcomed by various stakeholders and represents a shift towards a more liberalized framework while retaining necessary regulatory controls. It is contended that the introduction of the new policy has rendered many of the grievances raised in the present Appeal academic.

60. The Respondent No. 2 & 3 submitted that there is no abuse of dominant position as alleged by the Appellants. It is contended that Respondent No. 2 has exclusive rights only in respect of wholesale procurement, which is a policy decision taken in public interest. The Respondent No. 2 & 3 further submitted that retail sale is carried out through numerous independent vendors, thereby

ensuring competition at the distribution level. It is contended that there is no denial of market access to any manufacturer.

61. The Respondent No. 2 & 3 submitted that the procurement process is carried out through a transparent tender mechanism based on rate contracts. It is contended that manufacturers themselves quote prices, and adequate opportunity is provided for negotiation before finalization. The Respondent No. 2 & 3 further submitted that the allegation of unilateral price fixation is incorrect. It is contended that price escalation is permitted based on actual cost increases and that pricing decisions are taken after considering various economic factors.

62. The Respondent No. 2 & 3 submitted that the Kerala market continues to witness increasing participation by manufacturers, which clearly indicates that the pricing mechanism is viable and not restrictive. It is contended that no manufacturer has exited the market due to the alleged practices. The Respondent No. 2 & 3 further submitted that there is no preferential treatment granted to Respondent No. 3. It is contended that any concessions previously granted have been substantially reduced and that the limited benefit of Rs. 20 per case is negligible and justified keeping in view public policy.

63. The Respondent No. 2 & 3 submitted that significantly, none of the actual manufacturers have raised any grievance regarding discrimination or unfair treatment. It is contended that the present Appeal is based on hypothetical concerns rather than actual harm. The Respondent No. 2 & 3 further submitted

that under Section 19(3) of the Competition Act, factors such as consumer benefit, economic development, and market efficiency must be considered. It is contended that the current policy advances all these objectives.

64. The Respondent No. 2 & 3 submitted that the Appellants have failed to demonstrate any appreciable adverse effect on competition, which is essential for establishing a violation under the Act. The Respondent No. 2 & 3 further contended that it is a settled principle that courts and tribunals should not interfere with policy decisions unless they are arbitrary, illegal, or unconstitutional. It is submitted that no such ground has been made out in the present case. The Respondent No. 2 & 3 submitted that interference by this Appellate Tribunal would amount to encroaching upon the domain of the executive, which is impermissible in law.

65. The Respondent No. 2 & 3 submitted that the Circular dated 27.03.2021, providing for payment of unloading charges at its warehouses, was issued in response to multiple complaints received from sources including drivers of supplier companies, who were being compelled by trade union headload workers to make exorbitant direct payments. The Respondent No. 2 contended that, in order to address and regulate this issue, a mechanism was introduced whereby 10% was deducted from the suppliers' dues and remitted directly to the Head Load Workers' Board through KSBC, thereby ensuring transparency and preventing exploitation. The Respondent No. 2 & 3 further submitted that this

arrangement also provided relief to lorry drivers of the suppliers, who were otherwise forced to undertake loading and unloading operations in a tense environment marked by trade union disputes. It was stated that the deductions pursuant to the Circular were implemented only for the limited period from April to July 2021, with adjustments reflected in payments made in September 2021. Thereafter, the Circular was withdrawn, and suppliers were duly informed to make payments directly to the headload workers.

66. Concluding arguments, the Respondent No. 2 & 3 requested this Appellate Tribunal to dismiss the appeal with cost.

Findings

67. We will examine the allegations of the Appellants with respect to unilateral and unfair determination of purchase prices and loses caused to private manufacturing which is Anti- competitive in nature. In this connection, we note the detailed mechanism for price fixation as provided under the Rate Contract have been discussed in the Impugned Order and stated that: -

60. In respect of the above allegation, the Commission notes from the submission of OPs that authority to approve the rate contract rests with OP-1. In order to ascertain the reasonableness of the rate quoted by the liquor manufactures, it is prescribed as part of the tender process that they submit a cost sheet detailing the costs involved, including profit margin. Accordingly, members of IPs and other manufacturers quote their rates as per their cost sheet, and OP-1 accepts the same. The various cost components as stated by the manufacturers are considered while arriving at the purchase price by OP-1. From the cost sheet document enclosed with information, the Commission notes that the manufacturers/ suppliers provide to OP-1 detailed cost structure of the brands including Prime Cost, Factory Cost, Administrative overheads, Cost of Production, Selling & Distribution Overheads, Cost of Sales, Profit and Selling Cost. The cost sheet in the prescribed format is required to be confirmed by the chartered accountant of such manufacturers for each brand quoted. On the basis of this cost sheet, OP-1 decides the rate for purchasing liquor from manufacturers at the wholesale level.

68. We note that the CCI found that the Informants were not able to substantiate their allegations, particularly with regard to the alleged losses incurred by manufacturers on account of such supplies made by them to Respondent No. 2 and no evidence had been submitted in support of its contentions. As regards the claim of the Informants that while cost of production of liquor has increased by over 150% over the last 10 years, Respondent No. 2 had offered only about 30% price increase during the same period, the CCI found that many manufacturers who are regularly supplying their products, which

tended to indicate that manufacturers may not be into losses, as has been claimed. In any case, the Informant had not provided any evidence of manufacturers who have exited the market on account of unviability of supply in the face of alleged conduct of Respondent No. 2. Even during hearing before us, the Appellants could not produce any credible evidence. As such, we are not convinced with the contentions of the Appellants on this issue.

69. We would like to record that we put a pointed query to the Appellants to show us the documents attached to the information furnished to the CCI, based on which the CCI could have framed prima facie evidence in favor of the Appellants, based on which CCI could have been order investigation by the DG against the Respondent No.2 & 3.

70. At this stage, we would like to refer sample cost card part of the information furnished by the Appellants to the CCI, which reads as under:

SAMPLE COST CARD

	Qts-750
No.of Bottles	12
Qty in ML's	750
Bulk Ltr	9
Alcoholic Strength	42.825%
Proof Lt (PL)	6.75
Basic Price (EDP - Case of 12 Bottles 750ml)	**1,048.32**
Excise Duty	1,981.98
Addl Excise Duty **27%**	1,263.60
Total Duty	*3,245.58*
Landed to Distributor	**4,293.90**
Corporation Margin **2.5%**	117.00
Landed to Retailer	**4,410.90**
Retailer Margin **5.75%**	269.10
Consumer Price/Case	**₹ 4,680.00**
MRP/Bottle	**₹ 390.00**

71. From above, it is clear that the Appellants have not given any concrete information, which could have helped the CCI to frame its prima facie opinion to order for further investigations. Afterall, it is for the informant to furnish and produce some credential information. We wonder, if no evidence or documentary evidence or even few actual data sheets are given by the Appellants, then how could the CCI come to prima facie opinion establishing the case set up by the Appellants. It requires no imagination that sample cost cards remain only sample cost sheets or and do not translate into any factual data sheet enabling the CCI to form prima facie opinion for further enquiry by the DG.

72. We also observe that the Appellants stated in written submissions dated 28.04.2026 that "This Hon'ble Bench also posed a pertinent question to learned counsel for R1 that if, the Appellants had not produced cost and price evidence, why did R1 not in exercise of its suo motu powers call for such evidence? It could not, therefore, shut the present matter at the threshold despite the material already placed before it."

This however does not mean that the Appellants were not required to do any efforts on this part to make out prima facie case. Despite over pointing out on more than one occasions, the Appellants could not link such evidence or sustainability the same. Hence, we are not pursued by the arguments of the Appellants.

73. We also take into consideration that the CCI after noting the regulated nature of the product i.e. alcoholic beverages as well as its prices, which also involves payments to the state exchequer in the form of taxes and levies which are linked to the prices that are fixed, concluded that prices may be required to be fixed taking into account various factors, including cost, until the State decides to free the sector of its control. The CCI also recorded that Clause 11(c) of its Rate Contract dealing with the control of the liquor price does not *prima facie* appear to be an abuse, and it is not for the competition authority to determine what that appropriate price ought to be.

74. At this stage, we will look into relevant clauses of tender/contract highlighted by the Appellants which reads as under:

> *7. Once the rate of any of the brands is accepted / decided by the Corporation and the same is communicated by the Corporation, in writing to the offerors, it will constitute a complete rate contract. The Rate Contractor (Seller) will thereafter be liable to sell as much quantity of each brand / pack as and when required by the Corporation at the approved rates and conditions. In case of failure to do so, the Corporation may take such action as it deems fit including levy of any penalty and/or recovery of any direct/indirect loss/damage that may be suffered by the Corporation apart from forfeiture of Security Deposit.*
>
> *11. The decision of the Board of Directors of the Corporation shall be final with respect to:-*

(a) Acceptance or rejection of any or all the offers without assigning any reason.

(b) To select the Distillery/Brewery/Blending unit/Winery and brands out of those offered.

(c) Price fixation, terms of payment and all other terms with the offerers in respect of goods quoted/sold to the Corporation.

(d) Further, notwithstanding anything contained in the terms and conditions to the contrary, the Board of Directors of the Corporation shall be at liberty to relax, alter, amend, insert, omit any or all of the terms and conditions of the offer documents etc. to any Kerala Government owned Distillery / Blending Unit / Bottling Unit / Brewery / Winery and any Kerala based Distillery /Blending Unit / Bottling Unit / Brewery in public interest and/or following guidelines issued by the state Government and in such cases the offerors and/or Rate Contractors/sellers, as the case may be, will not be entitled to impede such action by the Corporation in any manner whatsoever citing any reason whatsoever.

19. Offences and Penalties

The Corporation shall have the right to impose penalties and recover the expenses incurred from the seller for breach of Permit/Tender conditions, Laws, Rules & Regulations, decisions of the Board of Directors and for violation of quality conditions of goods sold, and also for committing omissions, irregularities and similar conducts etc.

Further, the Corporation shall have the right to impose penalties and also recover expenses incurred towards revalidation/regularization etc., from the respective seller. Further,

(a) Where the goods sold to the Corporation do not get exhausted through sales within 90 days from the date of receipt of goods in the depots of the Corporation, the Corporation shall levy a penalty of Rs.10/- per case, per month, for the goods remaining unsold beyond 90 days from the date of their receipt in the depots (FL-9 shops) of the Corporation and until they are finally disposed off. The penalty amount will be calculated brand wise on FIFO basis or such other basis as may be determined by the Corporation from time to time. The amount of penalty so levied will be deducted from the payment due/Security Deposit etc. of the Seller. The Corporation will reserve the right to move these goods to another warehouse for effecting sale etc. and the expenses incurred thereon shall be debited to the account of the seller.

(b) Where goods continue to be held up, without being sold out for more than 240 days, in addition to the provisions of Clause (a) above, the Corporation reserves the right to debit all expenses and other statutory duties incurred to the account of respective seller and recover it from the payment due or Security Deposit etc.

(c) Subject to approval by Excise Authorities, in addition to the provisions of Clause (a) above, the Corporation reserves the right to destroy all such stocks

which are lying unsold for more than 360 days from the date on which they were received in the depots of the Corporation and debit cost, duties, expenses incurred on such destroyed stocks to the account of the respective supplier and recover the same from the payments due or Security Deposit etc.

(d) Penalty for revalidation / regularization / cancellation of permits and withholding of permit Application, penalty for Exiting a Brand etc, will also be recovered or debited to the Seller.

(e) In case of failure of the Rate Contractor (Seller) to sell as much quantity of each brands/pack as and when required by the Corporation at the approved Rates and Conditions as required in Clause 7, the penalty to be levied shall be such as may be decided by the Board of Directors from time to time.

(Emphasis Supplied)

75. This shows that Respondent No. 2 has categorically stated about preference to state-owned entity, if any, in public interest or in accordance with public policy announced by state of Kerala.

76. We will also examine the Appellant's allegation regarding, preferential treatments to Respondent No. 3's product by the Respondent No.2, we find that this was done under a policy declared upfront and as per clauses of Rate Contract permit such preferences in public interest. It has been submitted by Respondent No. 2 and Respondent No, 3 that while there are several manufacturers supplying multiple liquor brands to Respondent No. 1, Respondent No. 2 is only supplying

one brand of rum i.e., Jawan Rum of 1000 ml. The Appellants had not been able to demonstrate as to how competition, in general, with the existence of so many brands in the market, is adversely affected by granting such preference to Respondent No. 2. The Appellants had also not been able to demonstrate, in their submission, that any favour accruing to one product has actually resulted in distortion of demand/consumer preference or that the choice of consumer is being impaired.

77. We note that the Appellants have given written submissions on 28.04.2026 and stated that " During the hearing on 20 and 21 April 2026, this Hon'ble Bench repeatedly queried whether R2 had been according preferential treatment to R3 when counsel appearing for Respondent Nos. 2 and 3, in the presence of Counsels of the Appellants and R1, admitted repeatedly that preferential treatment was in fact being accorded to R3 as per the State policy. This admission goes to the root of the matter and directly implicates Section 4(2)(a)(i) of the Act.

We would like to record that we provided an opportunity to furnish details of various brands of RUM sold by the members of the Appellants, vis-à-vis data of Brand Rum "JAWAN" of 1000 ml to substantiate the allegations. We were not given any such data by the Appellants neither during pleading nor in the written submissions furnished by the Appellants dated 28.04.2026 after reserving the order. As such we do not find any basis for the allegations of the Appellants. We also take into consideration that this was based of tender calculations as per terms

of tender, which were pre-announced and provided the Appellants opportunity to submit their bids and finally got contracts awarded in their favour by the Respondent No.2. We do not, thus find any error on this account in the Impugned Order.

78. With regard to the allegations relating to cash discounts and their impact on competition, the CCI observed that the Respondent No.2 provides cash discounts to manufacturers ranging from approximately 7% to 22%, with lower discounts being more favourable to the manufacturers. These discounts are applied on the wholesale price, which is determined by Respondent No.2 based on cost sheets submitted by the manufacturers. The CCI further noted that Respondent No.2 justified the differential discount structure by distinguishing between fast-moving and slow-moving brands, with lower discounts for fast-moving brands and higher discounts for slow-moving ones. Such a structure was stated to be commercially justified, as it partly offsets the distribution costs incurred by Respondent No.2. It has been noticed that the Informants did not provide any evidence to show that these discounts resulted in actual losses to manufacturers or led to discriminatory treatment among manufacturers, or adversely affected the ability of manufacturers to effectively supply their products in the market.

79. As per Section 26 of the Competition Act, the procedure for inquiry vis-à-vis any information as a first step required the CCI to form an opinion on whether or not there exists a *prima facie* violation of Section 4 of the Competition Act. This step, where the CCI determines the existence of a *prima facie* case constitutes the *prima facie* stage. Depending on the opinion formed by the CCI, it can close the matter if it opines that no *prima facie* case exists, by passing an order under Section 26(2) of the Competition Act. The CCI, having found it to be a fit case for directing closure of the Information filed as no case for contravention of section 4 of the Competition Act was made out, passed the Impugned Order under Section 26(2) of the Competition Act.

80. For a statutory regulator like the CCI to effectively and efficiently deal with allegations of anti-competitive conduct made in the myriads of Information filed before it, Informants have a corresponding duty to conduct reasonable due diligence and thereafter, file holistic Information and there is no justification for filing incomplete Information. The Competition Act and the Competition Regulations provide that Informants will file holistic information. Regulation 10(4) of Competition Commission of India (General) Regulations, 2024 requires that the contents of the information or the reference mentioned under sub-regulations (1) and (2), along with the appendices and attachments thereto, as well as application under sub-regulation (3), shall be complete.

81. The allegations levelled in the present case seems general allegations without substantiating material, documents or proof on record, which ought to have been supplied by the Informants to the CCI including to data *qua* actual cost sheets, margins, losses caused, prices fixed, loss due to non-revision of prices, decline in market share etc. We find that the CCI was therefore correct to close the matter when no concrete evidence, allegations or details were disclosed in the Information filed. We also observe that the CCI considered the information on 15.06.2021 and directed the Opposite Parties to file para wise response(s), if any, to the information, latest by 19.07.2021, with an advance copy to each of the Informants. The Informants were also directed to file their comments, if any, to the response of Opposite Parties, latest by 02.08.2021. In deference to the said order, the Opposite Parties and Informants, after seeking due extension of time, submitted their reply/response on 31.07.2021 and 23.08.2021, respectively. As such, ample opportunities were made available to the Informants to supply any further information or documents that they wanted the CCI to rely upon or examine in order to come to a conclusion on the existence of a *prima facie* case. However, the Informants failed to supply any concrete information / material in that regard. Pertinently as held by the Hon'ble Supreme Court in *CCI vs. SAIL (Civil Appeal No. 7779 of 2010)*, the CCI is not expected to give notice to the parties, i.e. the informant or the affected parties and hear them at length, before forming its opinion. Reliance

was placed on the judgment of this Tribunal in ***Manoj K. Sheth vs. Secretary, CCI & Anr.*** **Comp. App. (AT) No. 20 of 2021 dated 06.02.2026**, which decision was rendered in the context of allegations of abuse of dominance under section 4 of the Competition Act coupled with conclusion drawn by the CCI under section 26(2) of the Competition Act that the information provided and the conduct alleged was not sufficient to cross the threshold of *prima facie* case to warrant an investigation by the DG. We find that the CCI, evaluated the limited evidence and the documents furnished by the Informants before concluding that *prima-facie* case did not exist. The informants did not make out any case as to the harm or loss occasioned on account of the alleged conduct, which is an essential ingredient, even at the *prima facie* stage as held by this Appellate Tribunal in ***Manoj K. Sheth (supra)*** relying on and applying the test laid down in *Competition Commission of India v. Schott Glass India P. Ltd. & Anr., 2025 SCC OnLine SC 1097* to formation of *prima facie* opinion at the stage of section 26 determination for allegations *qua* abuse of dominance under section 4 of the Act.

82. The relevant paragraphs of ***Manoj K. Sheth vs. Secretary, CCI & Anr.*** **Comp. App. (AT) No. 20 of 2021** reads as under**:**

> *"115. We need to appreciate that the intent of Competition Act is to ensure fair competition by prohibiting such practices which may cause appreciable Adverse Effect of Competition ('AAEC') in market within India. Per se, being dominant in*

the market is not bad at all, what is bad is, if such dominant player abuses its dominant position resulting into AAEC.

130. On this aspect, we appreciate that under Clause (19)(a)(i) of the Competition Act, an enquiry may be instituted on receipt of any information from anyone including the informant and the CCI, if required, may form its opinion about existence of prima-facie within 60 days. In terms of Regulation 16(2) of the CCI (General Regulation) 2009, in such eventuality, if the CCI forms an opinion that prima-facie case exists, the directions are required to be issued to the DG to investigate the matters. However, it needs to be consciously and clearly understood that if the CCI is of opinion that there exists no prima-facie case, the matter may be closed forthwith and the CCI may pass such orders as deemed fit and send a copy of its order to the parties concerned.

131. In the present case, we note that the Appellant filed an information under Section 19(1) of the Competition Act, but the CCI after examining the relevant facts and giving opportunity of being heard to the concerned parties as well as after examining the submissions made by the parties, the CCI formed an opinion that no prima-facie case existed and thus, passed the Impugned Order communicating to all parties including the Appellant.

132. We will be considering now the issue, whether the CCI is bound to be initiate the enquiry merely on the information received, if no prima-facie case exists. To reiterate, the CCI may direct enquiry only if it forms opinion that their exist a

prima-facie case. The term "opinion" necessarily means something more than mere complaint or gossip or belief the complainant or informant may have. The CCI needs to form an opinion about existence of some material which at the outset rather than going into detailed probe, the CCI is able to form an opinion whether prima-facie such case existed.

133. The prima-facie information itself presume that it is subjective satisfaction of the CCI which is need to be arrived in an objective manner meaning that there should be adequate material, on the basis on which the CCI forms such reasonable opinion. If such opinion formed by the CCI is arbitrary or perverse or based on some subjective factors or irrelevant facts, such opinion may not be held to be valid in terms of several judgments including Nagraj vs. Krishna [(1996) (ILRKAR) 753] where it was held that the expression prima-facie case means there is case which requires investigation and that based on the case is not based on erroneous or fictitious grounds. It also implies that the relevant material, evidence, circumstances in the knowledge of the CCI, there was possibility for the CCI to arrive at such conclusions that prima-facie the allegations of the Appellant were correct.

134. We need to recognise the fact that prima-facie case does not mean a case proved to be to the finality but means a case which is set to be established if the evidence which is furnished by the informant like the Appellant herein lead to support the same. In such cases, a summary enquiry is done by the CCI by taking evident of the concerned stakeholders

including written submission as deemed to be adequate for summary enquiry. We note that the CCI in the present case, based on the allegations of the Appellant, indeed called the NSE, who submitted all the required information to the CCI. We further take into consideration that the CCI, evaluated such evidence and the documents furnished by the NSE before concluding that prima-facie did not exist.

138. Thus, we tend to agree with the CCI that it formed its prima-facie opinion based on which all evidence and factors and came to the conclusion that no further investigation was required. Therefore, in our opinion the CCI passed the Impugned Order correctly…"

(Emphasis Supplied)

83. We observe that that Sections 21 and 21A of the Competition Act, provide for institutional coordination to align competition policy with broader public interest considerations. It is further noted that Section 49 of the Competition Act, relating to advocacy, offers an additional mechanism to promote public interest, while Section 54 of the Competition Act empowers the Government to exempt specific sectors or industries where necessary. The Preamble of the Act, particularly the phrase "keeping in view the economic development of the country," has guided the CCI approach in facilitating the transition towards a liberalized market economy, with public interest remaining the dominant consideration.

84. We would like to take into consideration the relevant paragraph of the impugned order, which reads as under:

> *"As regards allegations that OP-1 grants certain preferential treatments to OP-2's product, the Commission notes that OP-1 has accepted the preferential treatment accorded to OP2's product. Ex facie, grant of preference to one brand over the other is discriminatory and not in consonance with the principles of competition law. However, in the present case, the same has been stated to be done under a policy declared upfront and that certain clauses of Tender permit such preferences in public interest. Further, the Commission Case No. 10 of 2021 Page 19 of 21 notes from the submission of parties that there are several manufacturers supplying multiple liquor brands to OP-1, whereas OP-2 is only supplying one brand of rum i.e., Jawan Rum of 1000 ml. In this context, IPs have not been able to demonstrate as to how competition, in general, with the existence of so many brands in the market, is adversely affected by granting such preference to OP-2. In addition, the IPs have not been able to demonstrate, in their submission, that any favour accruing to one product has actually resulted in distortion of demand/consumer preference or that the choice of consumer is being impaired in any manner.*
>
> *(Emphasis supplied)*

85. We take into consideration that the contention of the Appellants, alleging error on the part of the CCI in not directing an investigation on account of limited

support extended to Respondent No. 3, is devoid of merit. It is observed that Respondent No. 3, being a wholly State-owned entity, manufactures only a single brand of rum, namely "Jawan," and has been operating under significant constraints, including past closures and labour disputes. It has been submitted that the benefit extended is minimal in nature, amounting to a discount of approximately Rs. 20, and does not materially distort market competition. Further large IMFL, beer, and wine manufacturers cannot reasonably claim an inability to compete with such a small-scale entity.

86. In the view of above detailed discussions, we do not find any error in the Impugned Order. The Appeal fails and stand rejected. No order as to costs. I.A., if any are closed.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)

Sim