



COMPETITION COMMISSION OF INDIA
Case No. 7 of 2019

In Re:

Bablu & Company,
B-891 New Subzi Mandi,
Azadpur Delhi- 110033.

Informant

And

Fatehchand & Company,
B-185, New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 1

Gordhan Das Rajiv Kumar,
B- 927-927 New Subzi Mandi,
Azadpur Delhi- 110033.

Opposite Party No. 2

Ajay Rajive & Comapny,
C-515 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 3

Jagdish Kumar & Company,
A-1185 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 4

Kewal Ram & Sons,
B-136 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 5

Raj Jagdish Fruit Company,
B-143, Office-92, 2nd Floor,
New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 6

M/s Vijaya Fruit Agency,
C-87 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 7

Krishan Lal Khushiram & Sons,
B-201 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 8



Ved Prakash & Sons,
B-139 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 9

Kullu Kashmir Trading Company,
C- 81 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 10

Ram Chand Govind Kumar,
B-150 New Subzi Mandi,
Azadpur Delhi-110033.

Opposite Party No. 11

CORAM

Mr. Ashok Kumar Gupta
Chairperson

Mr. U. C. Nahta
Member

Ms. Sangeeta Verma
Member

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

1. The present information has been filed under Section 19(1) (a) of the Competition Act, 2002 (the 'Act') by Bablu & Company (hereinafter, the 'Informant') against Fatehchand & Company (hereinafter, 'OP-1'), Gordhan Das Rajiv Kumar (hereinafter, 'OP-2'), Ajay Rajive & Company (hereinafter, 'OP-3'), Jagdish Kumar & Company (hereinafter, 'OP-4'), Kewal Ram & Sons (hereinafter, 'OP-5'), Raj Jagdish Fruit Company (hereinafter, 'OP-6'), Vijaya Fruit Agency (hereinafter, 'OP-7'), Krishan Lal Khushi Ram & Sons (hereinafter, 'OP-8'), Ved Prakash & Sons (hereinafter, 'OP-9'), Kullu Kashmir Trading Company (hereinafter, 'OP-10') and Ram Chand Govind Kumar (hereinafter, 'OP-11') (collectively referred as 'OPs'), alleging contravention of the provisions of Section 4 of the Act.



2. As per the information, the Informant is a proprietorship fruit merchant located in New Sabzi Mandi, Azadpur. OPs are licensed commission agents operating in the same mandi. As per Section 2(g) of the Delhi Agricultural Produce Marketing (Regulation) Act, 1998 (hereinafter, Delhi APMC Act) “commission agent or arhtia” means *a person, who by himself or through his servants, in the ordinary course of business, makes or offers to make a purchase or sale of a notified agriculture produce, on behalf of the seller or purchaser of such agricultural produce as the case may be, within the notified market yard and / or sub-yard or keeps it in his custody and controls it during the process of its sale or purchase and collects payment thereof from the buyer and pays it to the seller and receives by way of remuneration a commission or arhat or percentage upon the amount involved in each transaction.* It is the case of the Informant that he was in the business of buying fruits from different commission agents in the same mandi for supplying it to his customers located in and outside Delhi.
3. The Informant has alleged that:
- i. OPs did not sell fruits of high quality even when the Informant offered higher bid price than other competing buyers. Further, OPs received bid in hidden hand (an illegal practice) and did not disclose the outcome of bidding to the Informant even if he was the winning bidder and subsequently sold the same fruits to their relatives or friends at the same price as offered by the Informant.
 - ii. Subsequent to having made a deal with the Informant, OPs cancelled the contract at will and destroyed the bill if other buyers offered higher prices.
 - iii. OPs not only collected partial commission from farmers but also charged commission in excess of permissible rate, both practices allegedly in contravention of an order of Hon’ble Delhi High Court.
 - iv. The aforesaid conduct of OPs resulted into rise in prices of fruits and also caused heavy losses to the business and reputation of the Informant. Resultantly, the Informant closed his business in April 2017.



4. In view of above, the Informant has alleged that OPs have abused their dominant position, thus causing appreciable adverse effect on competition in India, in violation of the provisions of Section 3 and 4 of the Act. The Informant has also sought relief of Rs. 5,500/- crore on account of estimated loss to his business in past and perceived loss in future.

5. In the present matter, it is apposite to keep in mind the regulatory framework governing the functioning of Azadpur fruit and vegetable mandi, a regulated market declared as a market of national importance (MNI) under the provisions of Delhi APMC Act. The mandi is administered by the Agricultural Produce Marketing Committee (APMC) functioning under the overall supervision and control of Delhi Agricultural Marketing Board. APMC is vested with the powers to regulate and control notified market area as per the provisions of the Delhi APMC Act. As per website of APMC (MNI), Azadpur, its objectives are to facilitate marketing of notified fruits and vegetables and implement regulations meant for safeguarding the interest of farmers, producers/ sellers and consumers. Further, as per the Economic Survey of Delhi 2016-17, the APMC (MNI) Azadpur is one of the biggest fruit and vegetable markets in the world. Presently there are more than 3,700 licensed commission agents/ wholesalers.

6. Having carefully perused the Information and material available on record, the Commission observes that the gravamen of the Information is alleged conduct of the named commission agents regarding quality, quantity, delivery and payment in respect of purchase and subsequent sale of notified fruits in the APMC (MNI), Azadpur. In the considered opinion of the Commission, such disputes agitated by the Informant in the instant information do not reveal any competition issue. The Informant has also not placed any evidence on record wherefrom even *prima facie* a case of contravention of the provisions of Section 3 and 4 of the Act can be made out against OPs.



7. Further, the Commission notes that previously also, a case was filed by the Informant against same OPs (*Case No. 15 of 2017 In Re: Bablu & Company v. Fatehchand & Company And Ors.*) alleging contravention of the provisions of Section 4 of the Act. The said case was closed under the provisions of Section 26(2) of the Act *vide* Commission's order dated 09.06.2017. While closing the aforesaid matter, the Commission had observed that the alleged issues highlighted by the Informant did not raise any competition concern.
8. In view of the foregoing, the Commission is of the view that no case of contravention of the provisions of the Act is made out against OPs in the matter. Hence, the case is ordered to be closed forthwith under provisions of Section 26(2) of the Act.
9. The Secretary is directed to communicate to the Informant, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(U. C. Nahta)
Member

Sd/-
(Sangeeta Verma)
Member

New Delhi
Date: 10.05.2019