



## COMPETITION COMMISSION OF INDIA

### Suo Moto Case No. 04 of 2018

**In Re: Alleged cartelisation for increasing pulse prices in India**

**Against:**

**Viterra India Private Limited  
Cnergy', Unit B 4th Floor, Appa Saheb Marathe,  
Marg, Prabhadevi,  
Mumbai – 400025**

**Opposite Party Nos. 1 & 2**

**ETC Agro Commodities Pvt. Ltd.  
805 & 806,  
8th Floor, Neelkanth Corporate IT Park,  
Kirol Road,  
Vidya Vihar (WEST),  
Mumbai - 400 086**

**Opposite Party Nos. 3 & 4**

**Edelweiss Commodities Services Ltd.  
ICRA Limited,  
1105, Kailash Building,  
11th Floor, 26, Kasturba Gandhi Marg  
New Delhi- 110001**

**Opposite Party No. 5**

**M/s Jindal Agro international Pvt Ltd  
4055, F/F,  
Naya Bazar,  
Delhi-110 006**

**Opposite Party No. 6**

**Superior Agro Crops Pvt. Ltd.  
C 35/6, Lawrence Road,  
Industrial Area,  
Near Britannia chowk,  
Delhi-110035**

**Opposite Party No. 7**

**SV Agri Trade LLP  
D/16, Saujanya Building,  
Behind post office,  
Veer Savarkar Marg,  
Bhandup, East Mumbai,  
Mumbai, Maharashtra-400042**

**Opposite Party No. 8**



**Sharp Corp. Ltd.  
Sharp House, Plot no. 9,  
LSC, Gujranwala Town-1,  
Delhi-110009**

**Opposite Party No. 9**

**Arihant Future & Commodities Ltd.  
E/5, Ratlam Kothi,  
4, Amit Apartment,  
Indore, Madhya Pradesh- 452001**

**Opposite Party No. 10**

**M/s Surya Foods  
43, Murai Mohalla,  
1st Floor Sanyo,  
Indore  
Madhya Pradesh – 452 001**

**Opposite Party No. 11**

**India Pulses and Grains Association (IPGA)  
Unit 106, T. V. industrial Estate  
S.K Ahire Marg, Worli  
Mumbai – 400 030**

**Opposite Party No. 12**

**CORAM**

**Mr. Ashok Kumar Gupta  
Chairperson**

**Ms. Sangeeta Verma  
Member**

**Mr. Bhagwant Singh Bishnoi  
Member**

**Appearances:**

For Viterra India Private Limited, Mr. : Mr. Prashanto Chandra Sen, Senior Advocate  
Saurabh Bhartia, Desk Head- Pulses with Ms. Anisha Chand, Mr. Tanveer Verma,  
and Mr. Pramod Khandelwal; of Mr. Ebaad Nawaz Khan and Mr. Tahir Ashraf  
Viterra India Private Limited Siddiqui, Advocates along with Mr. Saurabh



Bhartiya and Mr. Pramod Khandelwal of  
Viterra India Private Limited

For ETC Agro Processing (India) Pvt. Ltd., Mr. Vijay Doshi, Director and Mr. Vikram Doshi, Trader; of ETC Agro Processing (India) Pvt. Ltd. : Mr. Tarun Gulati, Senior Advocate with Mr. Ravi Sekhar Nair, Mr. Abhay Joshi, Mr. Param Tandon, Mr. Sahil Khanna and Mr. Kumar Sambhav, Advocates alongwith Mr. Parag Gadre, CEO, Ms. Seema Jagnani, Senior Manager, Legal and Compliance, Mr. Vikram Doshi and Mr. Vijay Doshi; of ETC Agro Processing (India) Pvt. Ltd.

For Jindal Agro International Pvt. Ltd. and Mr. Dalip Jindal, of Jindal Agro International Pvt. Ltd. : Mr. Samar Bansal and Mr. Vijay Kasana, Advocates along with Mr. Dalip Jindal of Jindal Agro International Pvt. Ltd.

For M/s Surya Foods and Mr Manoj Agrawal, Proprietor, Surya Foods : Mr. Abhinav Malhotra, Advocate with Manoj Agrawal of Surya Foods

For India Pulses and Grains Association (IPGA), Mr. Anurag Tulshan, Convener, IPGA Kolkata Chapter and Mr. Pravin Dongre, Chairman, Managing Committee of IPGA : Mr. Amar Gahlot and Mr. Sanyam Aggarwal, Advocates along with Mr. Anurag Tulshan and Mr. Pravin Dogre of IPGA

### **ORDER**

1. The present case was initiated by the Commission *suo moto* under Section 19(1) of the Competition Act, 2002 ('the Act'). The case owes its genesis to an article titled 'When the Nation Could not Feel the Pulse' ('the article') written by Mr. Subir Ghosh ('the author') and



published in the *Economic and Political Weekly*, Vol. 52, Issue No. 25–26, dated 24.06.2017. The said article was related to alleged cartelisation, which led to increase in the prices of pulses in year 2015–16, by various agro-commodity companies including, *inter alia*, Glencore Grain India Pvt. Ltd (‘Opposite Party No. 1’/OP-1), Agricore Commodities Pvt. Ltd. (‘Opposite Party No. 2’/OP-2), ETC Agro Processing (India) Pvt. Ltd. (‘Opposite Party No. 3’/ OP-3), ETG Agro Pvt. Ltd. (‘Opposite Party No. 4’/OP4) Edelweiss Commodities Services Ltd. (‘Opposite Party No. 5’/OP-5), Jindal Agro International Pvt. Ltd. (‘Opposite Party No. 6’/OP-6), Superior Agro Crops Pvt. Ltd. (‘Opposite Party No. 7’/OP-7), SV Agri Trade LLP (‘Opposite Party No. 8’/OP-8), Sharp Corp. Ltd. (‘Opposite Party No. 9’/OP-9), Arihant Future & Commodities Ltd. (‘Opposite Party No. 10’/OP-10) and M/s Surya Foods (‘Opposite Party No. 11’/OP-11). During the course of investigation, the India Pulses and Grains Association (IPGA) was also added as an Opposite Party (OP-12). The OP-2 was merged into OP-1 in 2018 and the merged entity renamed as Viterra India Private Limited (‘Opposite Party No. 1’/‘Opposite Party No. 2’ or OP-1/OP-2). The OP-3 and OP-4 also merged in the year 2019 and became a single company ETC Agro Processing (India) Pvt. Ltd. (‘Opposite Party No. 3’/ ‘Opposite Party No. 4’ or OP-3/OP-4).

2. As per the article, OP-1 to OP-5 are leading agro-commodity companies with operations in procurement, warehousing, distribution, processing and trading of agricultural products. OP-6 to OP-9 are also engaged in activities similar to that of OP-1 to OP-5, and it was alleged that these OPs procured and hoarded local pulses stock, besides helping offload the stocks of OP-1 to OP-5. Further, OP-10 and OP-11 are entry operators who provided bogus bills to OP-1 to OP-9 to reduce their profits and evade taxes. The India Pulses and Grains Association (IPGA) (later added as OP-12 by DG), based in Mumbai, is registered under Section 8 of the Companies Act 2013 (earlier Section 25 of the Companies Act, 1956) with a membership of over 400, including various regional associations of the pulses industry.
3. As per the article, Appraisal Reports (ARs) prepared by the Income Tax Department, disclosed for the first time, showed that the pulses trade in the country is prone to manipulation. Moreover, the said article, on the basis of these ARs, alleged that the increase



in the prices of pulses in the year 2015–16 was a consequence of the formation of cartels by OP-1 to OP-11. The IT Department, in its ‘Appraisal Report in case of Pulse Importers and Trading Group’, states that “...*the abnormal price situation in India was created by coordinated collusive activity orchestrated by few trading and financial entities. The physical stock of pulses (were) cornered in domestic and international markets. Significant long positions on future were taken on exchanges to create artificial scarcity at wholesale and retail levels...*” The article also states that OPs rigged domestic rates to an unprecedented level to offload their stock, which was procured at much lower rates.

4. From the article, it emerged that the prices of pulses before 2015–16 were quite stable and fluctuated normally as per the demand-and-supply gap in the spot market (in respect of pulses such as Tur and Urad) and future market (in respect of Chana). However, the prices of pulses increased abnormally during 2015–16.
5. Additionally, the Commission noted from the article that the production of pulses in the crop years 2014–15 and 2015–16 had fallen significantly. The fall in supply was matched by increase in import and followed by an abnormal increase in the price of pulses in 2015–16, particularly during January 2015 to February 2016. The Commission also observed that the direct evidences and indirect evidences collected by the Income Tax Department, taken together, *prima facie* indicated possible collusion, meeting of minds and existence of anti-competitive agreement amongst the OPs.
6. The Commission also observed that the fall in production of pulses in 2015–16 had provided a conducive environment for easy manipulation by concerted act on the part of the OPs through the accumulation of pulses stocks, trading on the commodity market in a cohesive manner by taking long position, etc. Such conducts of OPs were noted as not only to control supplies in the market but also to indirectly determining the prices of pulses, both in the spot market and future market.



7. Accordingly, the Commission, *vide* its order dated 09.11.2018, directed the Director General (DG) to cause an investigation into the matter under Section 26(1) of the Act for investigating contravention of the provisions of Section 3 of the Act. The DG submitted the investigation report on 22.04.2022.

### **Investigation by the DG**

8. To examine the allegations, the DG issued notices to the OPs and third parties to collect relevant information/data. Additionally, the Office of the DG carried out search and seizure operations at the premises of OP-1/OP-2, OP-3/OP-4, OP-5 and OP-12. This information/data was analysed to identify the evidence. The investigation report was prepared on the basis of documentary/digital evidence and the oral testimonies of the witnesses who were examined by the DG during investigation.
9. A brief summary of the issues identified by the DG for investigation along with findings thereon are noted below:

#### **Issue (a)**

Whether there was an abnormal increase in the price of pulses in India during the period January 2015 to February 2016.

#### **Findings:**

The investigation found that there was an abnormal increase in the price of certain pulses during the alleged cartelisation period. These pulses were Chana, Tur, Urad and Masoor. Therefore, the investigation focused on these pulses. The percentage increase in price of these pulses during January 2015 to February 2016 are presented below:



**Table 1**

| <b>Pulses/Dal</b> | <b>Percentage change in price increase during alleged period</b> |
|-------------------|------------------------------------------------------------------|
| Tur/Pigeon Pea    | 81.69 (Jan 2015–Feb 2016)                                        |
| Chana/Chick Pea   | 40.62 (Jan 2015–Feb 2016)                                        |
| Urad/Black Mapte  | 75.92 (Jan 2015–Feb 2016)                                        |
| Masoor/Lentils    | 8.55 (Jan 2015–Feb 2016)                                         |

**Issue (b)**

Whether the abnormal price rise in pulses was on account of collusion amongst the OPs.

**Findings:**

The DG concluded that OP-1/OP-2 and OP-3/OP-4 were communicating and sharing sensitive commercial information. Sharing of such information/data by these OPs indicated that there was an agreement between them.

The investigation also come across an instance where supply of pulses was stopped at the behest of IPGA to millers in Daspara in West Bengal.

**Issue (c)**

Whether OP-10 and OP-11 facilitated the acts and conducts of OP-1 to OP-9 by providing bogus bills.

**Findings:**

The DG found that OP-11 facilitated OP-6 to provide accommodation entries, and therefore, OP-6 and OP-11 were found to be part of the collusive arrangement. No finding was recorded on this count against other OPs.



#### Issue (d)

Whether there was accumulation of stocks of pulses by the OPs during the period January 2015 to February 2016.

#### Findings:

Examination of closing stocks of OPs revealed that, during the alleged cartelization period, some of the OPs had maintained high closing stocks. For instance, in case of Tur, it was observed that OP-1, OP-2, OP-3, OP-4 OP-5 and OP-8 were having high level of stocks during 2015 in comparison to the previous year. A similar trend of maintaining high level of stocks of Chana was found in the case of OP-1, OP-2, and OP-3 and OP-4 in 2015. Regarding lentils, it was observed that OP-1, OP-2, OP-5 and OP-6 were maintaining high level of stocks in 2015. However, during the investigation, no evidence was unearthed which indicated that the OPs were jointly hoarding the stocks of pulses.

#### Issue (e)

What was the role of persons who, at the time of alleged contraventions, were responsible under Section 48 of the Act.?

#### Findings:

The investigation identified the following individuals of OP-1/OP-2, OP-3/OP-4, OP-6, OP-11 and OP-12 in terms of the provisions of Section 48 of the Act:

- (i) Mr. Pravin Dongre of OP-1/OP-2 and OP-12;
- (ii) Mr. Saurabh Bhartia of OP-1/OP-2
- (iii) Mr. Pramod Khandelwal of OP-1/OP-2;
- (iv) Mr. Vijay Doshi of OP-3/OP-4;
- (v) Mr. Vikram Doshi of OP-3/OP-4;
- (vi) Mr. Dalip Jindal of OP-6;
- (vii) Mr. Manoj Agarwal of OP-11; and
- (viii) Mr. Anurag Tulshan of OP-12.



10. Accordingly, the DG found contravention of the provisions of Section 3 of the Act read with Section 3(3) thereof against OP-1/OP-2, OP-3/OP-4, OP-6, OP-11 and OP-12 and their respective individuals, as noted *supra*. No finding of contravention was, however, made against the remaining OPs.
11. The Commission considered the investigation report of the DG in its ordinary meeting held on 02.05.2022, and *vide* its order of even date, decided to forward an electronic copy thereof (non-confidential version) to the Opposite Parties (OP-1/OP-2, OP-3/OP-4, OP-6, OP-11 and OP-12) who have been found by the DG to have contravened the provisions of the Act, as well as to their individuals identified by the DG to be liable in terms of the provisions of Section 48 of the Act. The Parties and individuals were directed to file their suggestions/objections, if any, to the investigation report submitted by the DG as well as financial details. The matter was directed to be listed for final hearing on 19.07.2022.
12. OP-1/OP-2, OP-3/OP-4, OP-6, OP-11 and OP-12 and their respective individuals submitted their objections/suggestions on the investigation report.

#### **Objections/Suggestions of OP-1/OP-2 and its individuals**

13. OP-1/OP-2 submitted that the DG Report suffers from various conceptual and fundamental errors and omissions. It was submitted that the investigation methodology was premised on an incorrect understanding of the supply chain, where the DG, without any rhyme or reason, has attributed an increase in the wholesale and retail prices of processed pulses directly to traders who import and deal in unprocessed pulses and operate many levels upstream to wholesalers and retailers, thereby skipping several levels in the supply chain.
14. OP-1/OP-2 stated that the investigation has ignored the regional/non-national character of the market. Each geography has local and regional attributes which have a bearing on demand



and pricing in the said market. Due to the market being extremely fragmented, the prevailing prices of each type of pulse is different in various geographies. Additionally, drivers of demand and supply and regional preferences create a dynamic market.

15. It was further submitted that the DG has failed to show the existence of any ‘plus factors’ such as (i) supernormal profits generated by any of the OPs or (ii) any other conduct of the OPs, which cannot have an explanation ‘but for’ a cartel. In fact, the DG has found absence of joint hoarding, which translates to the absence of any conduct by the OPs to artificially control/limit supply and conflicts with the very theory of ‘plus factors’. In addition, it was submitted that the investigation does not delve into the market power of OP-1/OP-2 and OP-3/OP-4 to raise prices, especially when the imports constituted only 16–26% of the total demand of pulses between FY 2011–12 to FY 2015–16 which, even if taken cumulatively, is itself insufficient to dictate the direction of prices. Further, the investigation has ignored that there were around 1090 and 1383 importers in this market in the calendar years 2015 and 2016, respectively, and a cartel would be effectively impossible to organise between a few importers, so that any efforts of the named OPs to increase prices would be thwarted by the lower prices charged by non-cartelist members.
16. In response to the finding of anti-competitive conduct by the DG on the basis that OP-1/OP-2 and OP-3/OP-4 were communicating and sharing sensitive commercial information such as intended selling price and stock position, OP-1/OP-2 stated that the investigation completely ignores the buyer–seller relationship between various OPs, which lead to frequent interaction amongst the OPs. In addition to purchasing pulses from exporters, the OPs, who are traders of pulses, also routinely engage in commodity trade (buying and selling) with each other. Also, some of the OPs, in addition to being traders, are also dal millers and procure unprocessed pulses from other OPs for processing at their mills.
17. OP-1/OP-2 further submitted that, based on internal communication between the employees of OP-1/OP-2 in relation to the information of other OPs, the DG has raised a suspicion of an ‘understanding’ between OP-1/OP-2 and the other OPs. This inference by the DG is



untenable, since the information of other OPs which was in possession of OP-1/OP-2 was already in the public domain and could not be considered commercially sensitive.

18. Mr. Saurabh Bhartia, Desk Head-Pulses, OP-1/OP-2, in his response, submitted that the observations of the DG in relation to him are incorrect and liable to be set aside in its entirety. Mr. Pramod Khandelwal of OP-1/OP-2 in his reply submitted that the findings of the DG in relation to him are based on incomplete, irrelevant material, conjectures and surmises without any conclusive findings.

### **Objections/Suggestions of OP-3/OP-4 and its individual**

19. OP-3/OP-4, at the outset, submitted that the DG Report suffers from critical foundational flaws since it records conclusions that have been arrived at with a premeditated mind and are based on unscientific analyses of both the evidence on record as well as the issues at hand. It also submitted that the observations and conclusions in the DG Report indicate lack of understanding of the issues, over-reliance on past proceedings under the Income Tax Act without establishing any nexus with the allegations and/or corroborating evidence with independent investigation.
20. As regards alleged communication and sharing of sensitive commercial information such as intended selling price and stock position, OP-3/OP-4 submitted that the DG has erroneously concluded that the sharing of the intended selling price of their products was to influence the price of the product in the market. The said information was exchanged in ordinary course of business between a seller and a prospective buyer and also widely available to the several market participants through various market price/ information service provider like “Agriwatch” which keeps a track of daily prices of various pulses. Further, with respect to sharing of stock position it submitted that all importers (including Viterra) receive the stock statements of other importers from port surveyors. The surveyors provide the importing quantity for different entities along with the names of the vessels. Once again, this highlights the fact that information regarding stock positions and prices is inherently transparent in the market for these commodities, and everyone routinely relies upon this data to predict the demand/supply conditions and the possible/likely market trends.



21. It was also submitted that the DG, while undertaking its analysis, ignored the fact that it did not hold more than 2% of the market share of total pulses in India during the years 2014–15 and 2015–16. Similarly, the approximate market shares of total pulses in India of other players are—Glencore: 2–2.5%; Edelweiss: 2–2.5%; Jindal Agro: 0.5%; and Superior: 1%. These insignificant market shares clearly indicate that, even collectively, these market players could not have possibly influenced or affected market prices at the pan-India level, and it would be futile for ETC and Glencore to have cartelised or entered into an anti-competitive agreement in violation of the provisions of the Act when there is no possibility of having an impact. Further, on the price rise, it was submitted that prices are determined by 80% or more of the supply controlled by domestic production and not by 20% or less of the imports.
22. It was further submitted that the observations and conclusions in the DG Report indicate over-reliance on the past proceedings under the Income Tax Act without establishing any nexus with the allegations and/or corroborating evidence with independent investigation. It is important to state that, in the IT proceedings that the DG has placed reliance upon, there were no adverse findings against ETC that would have any relevance or bearing in respect of the allegations contained in the DG Report.
23. Mr. Vijay Doshi and Mr. Vikram Doshi of OP-3/OP-4 adopted the response/submissions made on behalf of ETC.

#### **Objections/Suggestions of OP-6 and its individual**

24. On the issue that, during the month of January 2015 to March 2015 and September 2015 to March 2016, OP-6 was maintaining high level of stocks of red lentils, it was submitted that it had imported and procured the lentils in the normal course and had sold the same in the normal course of business. It is further submitted that, as per the DG Report, the prices of Tur had changed by 81.69%, prices of Chana had changed by 40.62% and prices of Urad had changed by 75.92%, whereas the prices of red lentils had changed by 8.55%, which is the least in



comparison to the other commodities; hence, there was no correlation between stock held and price changes with respect to red lentils. It was further denied by Dilip Jindal, Proprietor, OP-6, that he was engaged in any accommodation entries with anyone, as claimed in the DG Report.

### **Objections/Suggestions of OP-11 and its individual**

25. OP-11 in its reply submitted that it is mainly engaged in the brokerage (commercial agent) business and local trading business, whereas only a minuscule amount of goods was imported by it, which is almost negligible compared to other OPs. It further submitted that all the transactions done by OP-11 are genuine business transactions where goods were purchased/sold by issuing actual and genuine bills, and genuine supply of goods was made to the purchasers by OP-11 and it never facilitated any accommodation entry for anyone, including OP-6. It was further submitted that, even if it is assumed that the alleged accommodation entries were provided by them, the same can have a bearing on income tax but the same cannot alter prices of the commodity in any manner, as prices of commodity are driven by market forces such as demand and supply and not by accommodation or false entries.

### **Objections/Suggestions of OP-12 and its individuals**

26. On the allegation of stopping of supply of pulses to dal mills in Daspara in West Bengal, it was submitted that a WhatsApp message dated 16.11.2015 was sent to the members of IPGA to restrict supply to millers in Daspara as they were not honouring their trade obligations and using high-handed tactics, leading to considerable losses for traders/importers. IPGA further submitted that issues with Daspara millers were subsequently settled within a period of 3–4 days itself.
27. On the DG's observation that IPGA was used as a forum, *inter alia*, for discussing price trends, it was submitted that the agenda and discussions in the Managing Committee meetings were generally in respect of planning conferences/seminars (The Annual Pulses Conclave)



and coordinating with service providers for the same. Apart from that, meetings deliberated upon other logistical issues pertaining to IPGA as an association. The said meetings did not have even an iota of discussion related to current market trends, prices of pulses, stock positions held by pulses importers and the sale/purchase details of the importers. Mr. Anurag Tulshan and Mr. Pravin Dongre adopted the submissions made by IPGA on the DG Report.

### **Observations and Findings of the Commission**

28. The Commission has perused the material available on record, including the Investigation Report and evidences in support thereof as submitted by the DG and the submissions made by the Opposite Parties, and has also heard in detail the arguments put forth by the Parties during oral hearings.
29. The question which falls for consideration in the present matter is whether the OPs (including their association) have cartelised and thereby contravened the provisions of Section 3(1) of the Act read with Section 3(3)(a) thereof.
30. In this regard, at the outset, it is apposite to note that the definition of 'agreement' as given in Section 2(b) of the Act requires, *inter alia*, any arrangement or understanding or action in concert whether or not formal or in writing or intended to be enforceable by legal proceedings. The definition, being inclusive and not exhaustive, is a wide one. An understanding may be tacit and the definition under Section 2(b) of the Act covers even those situations where Parties act on the basis of a nod or a wink. The Commission notes that the Act envisages civil liability. Thus, the standard of proof required to prove an understanding or an agreement would be on the basis of 'preponderance of probabilities' and not 'beyond reasonable doubt'. Often, direct evidence of action in concert is not available and, in such situations, the Commission has to determine whether those involved in such dealings had some form of understanding and were acting in cooperation with each other. In light of the definition of the term 'agreement', the Commission has to assess the evidence on the basis of benchmark of preponderance of probabilities.



31. Further, in terms of the provisions contained in Section 3(1) of the Act, no enterprise or association of enterprises or person or association of persons can enter into any agreement in respect of production, supply, distribution, storage, acquisition or control of goods or provision of services, which causes or is likely to cause an appreciable adverse effect on competition within India. Section 3(2) of the Act declares that any agreement entered into in contravention of the provisions contained in sub-section (1) shall be void. Further, by virtue of the presumption contained in sub-section (3), any agreement entered between enterprises or associations of enterprises or persons or associations of persons or between any person and enterprise or practice carried on, or decision taken by, any association of enterprises or association of persons, including cartels, engaged in identical or similar trade of goods or provision of services, which: (a) directly or indirectly determines purchase or sale prices; (b) limits or controls production, supply, markets, technical development, investment or provision of services; (c) shares the market or source of production or provision of services by way of allocation of geographical area of market, or type of goods or services, or number of customers in the market or any other similar way; or (d) directly or indirectly results in bid rigging or collusive bidding, shall be presumed to have an appreciable adverse effect on competition.
32. In case of agreements as listed in Sections 3(3)(a) to (d) of the Act, once it is established that such an agreement exists, it will be presumed that the agreement has an appreciable adverse effect on competition, and the onus to rebut the presumption would lie upon the Parties.
33. In this statutory framework, the Commission proceeds to examine the evidence collected by the DG to assess whether there was an 'agreement' between the OPs of the nature prohibited in terms of the provisions contained in Section 3(1) of the Act read with Section 3(3) thereof.
34. On perusal of the material available on record, it appears that the findings of the DG are, *inter alia*, based on analysis of data of domestic production, imports, exports, domestic consumption, surplus/deficit, monthly average wholesale and retail prices, SMS/e-mail communications, etc. In this regard, the Commission observes that the investigation has not brought out any price parallelism amongst the OPs. Investigation has also not examined the



role of global prices in determining domestic prices, the nuances of the industry and market dynamics. The DG has relied mainly on the internal communication recovered by income tax authorities but has not analysed the nature of trade carried out by importers and whether such information regarding stock positions is available to the public and to all competitors and buyers. Pertinently, the DG itself noted in the investigation report that during investigation *“no evidence was unearthed which indicate that the OPs were jointly hoarding the stocks of pulses”*.

35. Furthermore, it is seen in the replies of the Parties that there also exists a buyer-seller relationship between various OPs and, in such a scenario, any interaction or exchange of any information amongst them need to be analysed keeping in mind multi-faceted relation amongst the various OPs. Against this backdrop, sporadic communications between OPs exchanging information, which is already available in public domain, cannot be construed as collusion between OPs.
36. It also cannot be ignored that OPs, who are traders of pulses, deal with other traders and dal millers through brokers/agents/intermediaries who may be common, and in these circumstances, dealing through common brokers and agents can result in transparency and organic dissemination of information in the market.
37. On careful perusal of the Investigation Report and considering the response of the OPs, the Commission is of the considered opinion that there is not sufficient evidence on record to establish cartelisation or action in concert. Resultantly, the Commission is of the opinion that no case of contravention of the provisions of Section 3 of the Act is made out against OPs. As such, the matter is directed to be closed forthwith.
38. Before parting with this order, the Commission, considering the nature of agriculture trade and multi-faceted relations amongst the various OPs, directs them to take due care that their communications do not transgress the permissible boundaries of the Act.



39. As a result, all pending applications, including application seeking cross-examination moved by some of the OPs, stand disposed and no separate orders or directions are required to be passed thereon.
40. The Secretary is directed to communicate to the concerned Parties accordingly.

**Sd/-**

**Ashok Kumar Gupta  
(Chairperson)**

**Sd/-**

**Sangeeta Verma  
(Member)**

**Sd/-**

**Bhagwant Singh Bishnoi  
(Member)**

**New Delhi  
Date: 13/10/2022**