

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Competition Appeal (AT) No. 19 of 2020

&

I.A. No. 2843 of 2020

IN THE MATTER OF:

Sundaram Brake Linings Ltd. & Ors.

...Appellants.

Versus

**Chief Materials Manager,
South Eastern Railways & Ors.**

...Respondents.

Present:

**For Appellant: Mr. Aditya Verma and Mr. Shrey Patnaik,
Advocates.**

**For Respondent: Mr. Amit Kumar, Advocate for R-1.
Mr. Manas Kumar Chaudhuri, Ms. Radhika Seth,
Mr. Ebaad Nawaz Khan, Advocates for R-2.
Mr. R. Sudhinder, Ms. Prerna Amitabh,
Advocates for R-3.
Mr. Avinash Amarnath, Advocate for R-4.
Mr. Ram Kumar, Mr. Dinoo Muthappa,
Mr. Dhruv Dikshit, Advocates for R-5.
Mr. Shashank Singh, Mr. Arjun Minocha,
Mr. Sourav Vig, Advocates for R-8.
Ms. Shama Nargis, Deputy Direct. Law, CCI.**

**ORDER
(Virtual Mode)**

02.03.2021 Heard Learned Counsel for the Appellant. The Appellant has filed I.A. No. 2843 of 2020 claiming that the Respondent Nos 2-10 of the Appeal are proforma Respondents and that the Appeal is against the Order of Competition Commission of India. The Application claims that the Appellant is not seeking any relief against the Respondent Nos. 2-10 and they are not necessary or proper parties any longer. The Appellant has sought to delete Respondent Nos. 2-10 from the array of parties.

2. On 02nd February, 2021, when the matter had come up before us we had passed the following orders:

“Heard Learned Counsel for the Appellant in I.A. No. 2843 of 2020 and partly heard Learned Counsel for the Respondent No. 3. The grievance of some of Respondents appears to be that even if the Appellant is claiming that he is not seeking any relief against Respondent Nos. 2 to 10, they do not know if the Appellant is making any averments against Respondent Nos. 2 to 10 as they do not have copy of the Appeal. They claim that it is a matter of cartel and if the Appellant is making claim against Respondent Nos. 2 to 10 or putting blame on Respondent Nos. 2 to 10, then they have a right to defend themselves. Learned Counsel for the Appellant states that the Appellant is not making any averments or putting blames against Respondent Nos. 2 to 10 and not seeking any relief against Respondent Nos. 2 to 10.

The Appellant may file Affidavit to this effect. Affidavit may be filed within a week.

*List the I.A. No. 2843 of 2020 with the Appeal ‘For Admission (After Notice)’ Hearing on **2nd March, 2021.**”*

3. In compliance of the Order, the Appellant has filed Affidavit Diary No. 25337 in which after referring to the document, it is stated in Paragraphs as under:

“5. That the Appellants rely on these matters of record to file this Affidavit in compliance with the order of this Hon’ble Court dated 2nd February, 2021 as state that the Appellants:

a. do not seek any relief against Respondents No 2 to 10 in the Appeal,

- b. do not make any averments in the Appeal against or to the further prejudice of any particular opposite party, including Respondents No. 2 to 10, and*
- c. do not put blame on any of the Respondents No 2 to 10 for the findings made against and directions issued to the Appellants in the Impugned Order.*

6. *That, therefore, it would be expedient in the interests of justice to allow IA No 2843 of 2020 and inter alia delete Respondent Nos. 2 to 10 from the array of parties.”*

4. In view of the such statements put on record and also in Affidavit, Learned Counsel for Respondent Nos. 2 to 10 who put in appearance, except Respondent No. 4, do not oppose deletion. Mr. Avinash Amarnath, Advocate for Respondent No. 4 submits that the Appellant has not shown copy of the Appeal and its contents and so the Respondent No. 4 does not know what are the contents and thus he still desires to be Respondent.

5. This is an Appeal of the Appellant and it is for the Appellant to array parties against whom the Appellant seeks relief. The Appellant desires to delete Respondents against whom the Appellant claims it is not seeking any relief. Appellant cannot be forced to prosecute parties against whom no relief is sought. They do not appear to be necessary parties. This being so, in spite of objection from Respondent No. 4, we accept the request of the Appellant as made in I.A. No. 2843 of 2020. The Respondent Nos 2 to 10 as arrayed in the Appeal be deleted at risk of Appellant. Learned Counsel for the Appellant to bracket names of Respondent Nos. 2 to 10 and endorse “deleted”.

6. Learned Counsel for the Appellant seeks to add Competition Commission of India (in short CCI) as Party. CCI may be added as Party marking it as Respondent No. 11. Respondent Nos 1 and 11 to be treated as contesting Respondents.

7. Issue Notice to CCI by Speed-Post. Requisites along with process fee be filed, if not filed by 05.03.2021. If the Appellant provides the e-mail address of Respondent No. 11-CCI, let notice also be issued through e-mail.

8. Contesting Respondent Nos. 1 and 11 to file Reply-Affidavits within two weeks. Rejoinder, if any, may be filed within one week, thereafter.

List the Appeal 'For Admission (After Notice)' Hearing on **13th April, 2021**.

[Justice A.I.S. Cheema]
Member (Judicial)

[Dr. Alok Srivastava]
Member (Technical)

Basant B./nn