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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 695/2017 & CM Nos.38739-40/2017

TTK PROTECTIVE DEVICES LTDF

..... Appellant

Through Mr. Arvind K. Nigam, Sr. Adv. with
Mr. Aaditya Vijay Kumar, Mr. Mikhil
Sharda and Ms. Akshita Katoch,
Advs.

versus

COMPETITION COMMISSION OF INDIA & ANRD

..... Respondent

Through Mr. Balaji Subramanian and
Mr. Siddharth Nath, Advs.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **01.11.2017**

After some hearing leaned senior counsel sought liberty to withdraw the appeal and approach the commission in the light of the judgment of this Court in *Google Inc. and Ors. vs. Competition Commission of India and Ors.* 2015 (150) DRJ 192. In that judgment, the Division Bench had declared as follows:-

“19. However, having said that, we are not to be understood as conveying that in every case in which CCI has ordered investigation without hearing the person/enterprise complained/referred against, such person/enterprise would have a right to apply for review/recall of that order. Such a power though found to exist has to be sparingly exercised and ensuring that the

reasons which prevailed with the Supreme Court in SAIL (supra) for negating a right of hearing to a person are not subverted.

20. Such a power has to be exercised on the well recognized parameters of the power of review/recall and without lengthy arguments and without the investigation already ordered being stalled indefinitely. In fact, it is up to the CCI to also upon being so called upon to recall/review its order under Section 26(1) of the Act to decide whether to, pending the said decision, stall the investigation or not, as observed hereinabove also. The jurisdiction of review/recall would be exercised only if without entering into any factual controversy, CCI finds no merit in the complaint/reference on which investigation had been ordered. The application for review/recall of the order under Section 26(1) of the Act is not to become the Section 26(8) stage of the Act.

21. We therefore answer the question framed hereinabove for adjudication in affirmative and hold that respondent No.1 CCI has the power to recall/review the order under Section 26(1) of the Act but within the parameters and subject to the restrictions discussed above.”

The Commission, if approach, would consider the appellant's requests, in accordance with law on its merits without having regard to the observations of the Single Judge.

The appeal is dismissed as withdrawn.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

NOVEMBER 01, 2017/rb