



2025:DHC:2550



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

% **Date of Decision: 07.04.2025**

+ **W.P.(C) 3705/2025**
and CM APPL.17323/2025 (Stay), CM APPL.17325/2025

ILD HOUSING PROJECTS PVT LTD FORMERLY
KNOWN AS INTERNATIONAL LAND DEVELOPERS PVT LTD.
.....Petitioner

Through: Mr. Rajshekhar Rao, Sr. Adv.
alongwith Mr. Gurmeher Sistani and
Ms. Aashna Chawla, Advocates.

versus

COMPETITION COMMISSION OF INDIA & ORS.Respondents

Through: Mr. Balbir Singh, Sr. Adv., Mr.
Udaya Jain, Ms. Geetika Jain, Mr.
Harsh Jaswal and Mr. Ranjan Mishra,
Advs. for R-1/CCI.

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+ **W.P.(C) 10948/2024 and CM APPL.45119/2024**

CONFEDERATION OF REAL ESTATE
DEVELOPERS ASSOCIATION OF INDIA NCR (CREDAI NCR)
.....Petitioner

Through: Mr. Jayant Mehta, Sr. Adv. alongwith
Mr. Vijay Nair, Mr. Manoranjan
Sharma and Mr. Deeptanshu Jain,
Advocates.

versus

COMPETITION COMMISSION OF INDIA & ORS.Respondents

Through: Mr. Alok Sangwan, Sr. AAG,
Haryan, Mr. Sumit Kumar Sharma,
Mr. Rajat Sangwan, Advs. for R-2.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA



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SACHIN DATTA, J. (ORAL)

CM APPL.17324/2025 in W.P.(C) 3705/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 3705/2025

W.P.(C) 10948/2024

3. The present petitions *inter-alia* seeks to assail an order dated 19.06.2024 passed by the respondent no.1/Competition Commission of India (CCI) in case No.40 of 2017, whereby, the application filed by the petitioners under Section 42 of the Competition Act, 2002 (hereinafter '*Competition Act*') to initiate investigation against respondent no.2/the Department of Town and Country Planning, Haryana (DTCP) was dismissed by the respondent no.1.
4. At the outset, it is noticed that the factual matrix is identical in all these petitions and these petitions are also predicated on identical grounds. In the above circumstances, it is considered apposite to dispose of the said petitions by way of a common order.
5. The petitioner in W.P.(C) 10948/2024 is the Confederation of Real Estate Developers Association of India-NCR (CREDAI-NCR), an organisation representing real estate developers in NCR region (Gurugram, Faridabad, Sohna, Dharuhera, NH1 Belt i.e., Kundli, Sonipat, Panipat, Noida, Greater Noida, Yamuna Expressway, Ghaziabad, Bhiwadi, Neemrana and adjoining regions) and the petitioner in W.P.(C) 3705/2025 is a Real Estate Developer and a member of CREDAI-NCR.



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6. Whereas respondent no.1 is a statutory body/regulator under the Ministry of Corporate Affairs, Government of India which is responsible for enforcement of the Competition Act with an objective to promote competition and prevent activities that can have an adverse effect on the competition in India. The respondent no.2 is department of the Government of Haryana empowered to regulate urban development in the State of Haryana and has been delegated the power to grant licenses to developers/petitioners for development of real estate colonies in State of Haryana by the respondent no.3

7. The dispute/s in the present petition have arisen in the backdrop of licenses/Letter of Intent/Agreement issued by the respondent no.2 to the petitioners pertaining to the Sohna Master Plan 2031 for group housing colony in the revenue estate of tehsil Sohna, Gurgram, Haryana. A complaint/information bearing no. 40/2017 came to be filed by the petitioners before respondent no.1 under section 19(1)(a) of the Competition Act against respondent nos.2 and 3 for levying unfair and discriminatory terms and condition in respect of charging and collection of External Development Charges (EDC) and Infrastructure Development Charges (IDC). It was alleged therein that the respondent no.2 in abuse of their position in the State of Haryana is imposing the aforesaid charges without factually carrying out any external or infrastructural development.

8. The respondent no.1 *vide* order dated 06.04.2018 passed under Section 26(1) of the Competition Act *prima facie* opined that a case of contravention under Section 4(2)(a)(i) of the Competition Act can be made out against the respondents and consequently directed the Director General



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to investigate into the matter and submit a report.

9. In the meantime, the respondent no.1 under Section 33 of the Competition Act passed an interim order dated 01.08.2018, whereby it was directed that *status quo* shall be maintained and the respondent nos.2 and 3 will restrain from taking any coercive steps with respect to payment of EDC and licenses granted to the petitioner. The relevant portion of the said interim order reads as under:

“20. Coming to the facts of the present case, the Commission observes that the developers for the purpose of grant of license have to execute LOI and LCIV agreement with OP-1 in which the condition regarding payment of EDC is also present. Such condition stipulates that the payment of EDC amount may be made by the developer either in lump-sum within 30 days from the grant of license or in 8/10 equal six monthly instalments of 12.5% /10% of which the first instalment shall be payable within a period of 30 days from the date of grant of license. Further, it is contained in the terms that where EDC amount is being paid in instalments, the unpaid amount after the payment of first instalment would carry an interest of 12% per annum and in case of any delay in payments of instalments on the due date, an additional penal interest of 3% per annum would be levied, making the total payable interest as 15% per annum. In the instant case, most of the developers have exercised the instalment payment option whereby they are paying interest on the unpaid portion. In case of delay in payment of instalments, the OPs are charging penal interest also. On the other hand, no external development work has been commenced by the OPs towards providing basic facilities for the area included in the Sohna Master Plan.

21. Apart from that, it has been brought to the notice of the Commission during the hearing that the developers have to get their license renewed every five years commencing from the date of grant of license and pay renewal fee on each occasion. Such fee has to be paid even if the reason for which the project is pending is non-completion of external development work by the OPs. This means that the developers who have been granted license in 2014 would have to pay the renewal fee in 2019 mandatorily if the External Development Works remain pending owing to the complacency of the OPs.

22. The Commission is of the view that the interest of the developers in



this regard can be protected through appropriate directions; whereas, in the absence of intervention by the Commission at this stage, neither can the extant position be restored at a later stage nor the likely damages to the developers and the consumers be compensated. Thus, in the given facts and circumstances, the Commission finds that the balance of convenience lies in granting the interim relief as sought by the Informant. It has been observed by the Hon'ble Supreme Court in Zenit Mataplast P.Ltd vs State Of Maharashtra & Ors (2009) 10 SCC 388:

“Interim order is passed on the basis of prima facie findings, which are tentative. Such order is passed as a temporary arrangement to preserve the status quo till the matter is decided finally, to ensure that the matter does not become either infructuous or a fait accompli before the final hearing. The object of the interlocutory injunction is, to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial.”

23. In light of the factual situation as discussed in the preceding paras, the case in hand appears to be exceptional in nature, which merits intervention by the Commission. The Commission notes that the investigation in the present matter is likely to take some time. In the meanwhile, the members of the Informant could suffer irreparable harm by way of cancellation of licenses and levying of penal interest despite the OPs being at fault. The Informant has placed on record the fact that the OPs are not discharging their obligation under the agreement and yet have issued several notices to the developers for want of payment of due EDC amount, wherein it is stated that default by the developers would render their license null and void. Thus, the Commission finds it appropriate and necessary to intervene at this stage to safeguard the members of the Informant against the irreparable and irretrievable losses that may be caused to them.

24. Regarding the scope of intervention in the form of interim relief, it is observed that the Hon'ble Supreme Court in Dalpat Kumar (supra), has explained as under:

“The phrases “prima facie case”; “balance of convenience” and “irreparable loss” are not rhetoric phrases for incantation, but words of width and elasticity, to meet myriad situations presented by man's ingenuity in given facts and circumstances, but always is hedged with sound exercise of judicial discretion to meet the ends of justice.”

25. In view of the foregoing, the Commission finds that the facts of the case make it evident that there is a need for intervention to meet the ends



of justice. While the Commission acknowledges that the collection of EDC is important for the OPs to undertake and carry out the External Development Works in the Sohna area, the fact remains that there is inaction on the part of the OPs to carry out their duties despite collection of Rs. 400 crore (approximately) for the said purpose. Keeping this in mind, the Commission finds it appropriate to restrain the OPs from taking any coercive steps with respect to the payment of remaining instalments of EDC from those developers who have paid 10% (ten percent) of EDC and deposited 25% (twenty-five percent) of EDC in the form of bank guarantee. No interest or penal interest shall be charged on the remaining instalments from such developers. However, if any amount has been collected by the developers from consumers towards EDC, the same shall be deposited with OP-1. Further, no coercive action shall be taken by the OPs with respect to the licenses granted to the developers and status quo shall be maintained. This order shall remain in operation till the final disposal of the proceedings before the Commission or till further orders, whichever occurs earlier.

26. In the meanwhile, if the OPs initiate steps for acquisition of land for the purposes of undertaking External Development Works for the provision of basic facilities like water supply, sewerage, drains, roads, electrical works, etc., in the area as per the Sohna Master Plan, they may approach the Commission for variation of this order.

27. It is noted from the interim relief application that the Informant has also sought relief with respect to payment of IDC as well, which the developers are required to pay to the OPs upfront in two instalments within six months. However, during the hearing, the Informant did not press for this relief. Further, the OPs have submitted that 90 percent of IDC has already been collected from the developers. Thus, the Commission finds that the prayer with respect to IDC does not merit interim intervention. Accordingly, no interim relief is granted with respect to IDC by way of this order.

10. In compliance with order dated 06.04.2018, a report dated 21.12.2018 was submitted by the Director General whereby it was *inter-alia* also opined that *prima facie* respondent no.2 contravened Section 4(2)(a)(i) of the Competition Act.
11. While the aforesaid case was pending before the CCI, respondent no.2



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issued an office order bearing no. CC-2052/Asstt (AK)/2019/11036 dated 02.05.2019 implementing the directions passed by the respondent no.1 in order dated 01.08.2018. The said office order reads as under:

“ORDER

The Competition Commission of India (CCI) has passed an order dated 01.08.2018 in case No. 40 of 2017 titled as Confederation of Real Estate Developers Association of India – NCR (CREDAI –NCR) Vs. Department of Town and Country Planning, Govt. of Haryana and another. The case relates to levying off external development charges on the colonizers / developers to whom the licences are granted for developing colonies under the provisions of the Haryana Development and Regulations of Urban Areas Act, 1975 and Rules, 1976. In order to implement above said directions of the Hon'ble CCI in letter and spirit, the following decision is taken in case of licences granted at Sohna development plan area:-

(i) For those cases where developers have paid 10% of EDC and submitted Bank Guarantees in respect of 25% of total EDC, all cancellation of licence proceedings on account of default in EDC payments in Sohna Development Plan has been kept in abeyance till the outcome of Case no. 40 of 2017 in CCI and CWP no. 31106 of 2018 in Hon'ble Punjab and Haryana High Court,

(ii) For the purpose of any approval in such licenses, including grant of licence on additional land, payment of EDC beyond what has been prescribed in para (i) above shall not be insisted upon.

(iii) No interest or penal interest as indicated in the LC-IV agreements executed with the Department, shall be charged on the remaining instalments for such developers. The same may also be implemented in the online EDC statement generated by the Department.

Dated: 02.05.2019

*(K. Makrand Pandurang, IAS)
Director*

Place: Chandigarh

*Town & Country Planning Department,
Haryana, Chandigarh.*

Endst. No. CC-2052/Asstt(AK)/2019/11036

Dated: 02.05.2019”

12. Thereafter, the petitioners filed a resolution dated 24.07.2019 passed



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by CREDAI-NCR before the respondent no.1 for withdrawal of the aforesaid case. The said resolution reads as under: (handover document)

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

Ref.: Case No. 40 of 2017;

Dear Sir,

Sub: Withdrawal of Case No. 40 of 2017.

Please find enclosed two (2) copies of the resolution dated 24.07.2019 passed by our Client, Confederation of Real Estate Developers Association of India-NCR Chapter (CREDAI) for withdrawal of the Captioned case. A Vakalatnama duly authorizing us to file is already on record.

The instant letter is being filed without prejudice to our right and contentions in law.

We request you to kindly take the letter along with the resolution on record.

*Thanking You,
Yours Sincerely,*

Sd/-

*L&L Partners
Law Offices
G.R. Bhatia/ Abdullah Hussain/ Arjun Nihal Singh”*

13. On the basis of the aforesaid resolution, respondent no.1 vide an order dated 13.07.2022 allowed the application for withdrawal by observing as under:

“13. In the aforesaid conspectus, the Commission notes that pursuant to the interim order passed by the Commission vide its order dated 01.08.2018, DTCP/ OP-1 issued an Order dated 20.05.2019 implementing the directions



issued thereunder. For ready reference, the same is excerpted below:

ORDER

The Competition Commission. of India (CCI) has passed an order dated 01.08.2018 in Case No. 40 of 2017 titled as Confederation of Real Estate Developers Association of India – NCR (CREDAINCR) vs. Department of Town and Country Planning, Govt. of Haryana and another. The case relates to levying off external development charges on the colonizers/ developers to whom the licences are granted for developing colonies under the provisions of the Haryana Development and Regulations of Urban Areas Act, 1975 and Rules, 1976. In order to implement above said directions of the Hon'ble CCI in letter and spirit, the following decision is taken in case of licences granted at Sohna Development plan area:-

(i) For those cases where developers 'have 'paid 10% of EDC and submitted Bank Guarantees in respect of 25% of total EDC, all cancellation of license proceedings on account of default of EDC payments in Sohna Development Plan has been kept in abeyance till the outcome of Case No. 40 of 2017 in CCI and CWP No. 31106 of 2018 in Hon'ble Punjab and Haryana High Court,

(ii) For the purpose of any approval in such licences, including grant of license on additional land, payment of EDC beyond what has been prescribed in para (i) above shall not be insisted upon.

(iii) No interest or penal interest as indicated in the LC-JV agreements executed with the Department, shall be charged on the remaining instalments for such developers. The same may also be implemented in the online EDC statement generated by the Department.

14. At this stage, it is also pertinent to note a submission dated 24.07.2019 filed by the Informant itself before the Commission enclosing therewith Copy of a resolution dated 24.07.2019 passed by CREDAI-NCR i.e. the Informant before the Commission for withdrawal of the present case pending before the Commission.

15. Having considered the aforesaid developments, the Commission is satisfied that DTCP has taken earnest steps to address the concerns of the builders as reflected in the aforesaid order passed by DTCP and consequent resolution passed by CREDAI-NCR seeking withdrawal of the present case. Having bestowed thoughtful consideration, the Commission is of the opinion that no useful purpose would be served in proceeding with the present matter in light of the aforesaid developments. Accordingly, the Commission decides



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to close the matter forthwith against OP-1 and OP-2. As a result, nothing would survive against the four officers of DTCP viz. Shri Anurag Rastogi, Shri Arun Gupta, Shri T. L. Satyaprakash and Shri K. M. Pandurang - who were the Director(s) General and Director(s) at the relevant time of DTCP and the proceedings against them also stand closed forthwith.”

14. Thereafter, respondent no.2 subsequently issued an office order dated 16.01.2024, whereby, the office order dated 02.05.2019 was recalled/withdrawn by the respondent no.2 in light of the CCI disposing of the complaint filed by the petitioners vide order dated 13.07.2022. The said order reads as under:

*“Directorate of Town & Country Planning, Haryana
Nagar Yojana Bhavan, Plot No.3, Sector-18A, Madhya Marg, Chandigarh
Phone: 0172-2549851 email : tcpharyana7@gmail.com
Website tcpharyana.gov.in*

ORDER

In order to implement the directions of the Hon’ble CCI dated 01.08.2018 in case no. 40 of 2017 titled as Confederation of Real Estates Developers Association of India – NCR (CREDAI-NCR) V/s Department of Town and Country Planning, Govt, of Haryana and another, an office order dated 02.05.2019 was issued vide Endst. no. CC-2052 / Asstt. (AK)/2019/11036 dated 02.05.2019 to recover the EDC in case of licences granted within inal Development Plan Sohna - 2031 AD till the outcome of case no. 40 of 2017 in CCI and CWP No. 31106 of 2018 in Hon’ble Punjab and Haryana High Court.

2. Since the Appeal No. 40 of 2017 has been disposed off vide orders dated 13.07.2022, therefore the office order dated 02.05.2019 passed by the then Director General, Town & Country Planning is no more in operation and the same is hereby withdrawn.

(Amit Khatri, IAS)

Dated: 15-01-2024

Director, Town & country

Planning,

Place : Chandigarh

Haryana, Chandigarh

Endst. No. CC-2052/Asstt. (AK)/2024/1775

Dated: 16-01-2024

A copy is forwarded to the Secretary, Competition Commission of India, 9th Floor, Office Block-1, Kidwai Nagar (East) New Delhi for



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information please.

(R. S. Batth)

District Town Planneer (HQ)

For: Director, Town & Country Planning,
Haryana, Chandigarh.

Endst. No. CC-2052/Asstt. (AK)/2024/1776-80

Dated: 16-01-2024"

15. The petitioner, being aggrieved by the aforesaid order, filed a representation dated 05.03.2024 before the respondent no.1. The Respondent no.1 vide communication/letter dated 27.03.2024 communicated that there is no provision to re-open/review of closed cases in which final orders have been passed and suggested that the petitioner shall either file a fresh information or appropriate Interlocutory Application under relevant provision of the Competition Act.

16. Thereafter, the petitioner filed an application under Section 42 of the Competition Act praying for initiation of action and imposition of penalty against respondent no.2 and its director for contravening orders dated 01.08.2019 and 13.07.2022 passed by the respondent no.1. The said application was dismissed vide impugned order dated 19.06.2024 on the premise that no directives were issued by CCI in the final order and thus there can be no occasion for failure to comply with order/directions. The said order, inter-alia, holds as under:

"13. At the outset, it would be apposite to outline the scope and boundaries of Section 42 of the Act. It provides that:

42. (1) The Commission may cause an inquiry to be made into compliance of its orders or directions made in exercise of its powers under the Act.

(2) If any person, without reasonable cause, fails to comply with the orders or directions of the Commission issued under sections 6,27,28,31,32,33,42A., 43A, 44 and 45 of the Act, he shall be liable to a penalty which may extend to rupees one lakh for each day during which such non-compliance occurs, subject to a maximum of rupees ten crore,



as the Commission may determine.

(3) If any person does not comply with the orders or directions issued, or fails to pay the penalty imposed under sub-section (2), he shall, without prejudice to any proceeding under section 39, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to rupees twenty-five crore, or with both. as the Chief Metropolitan Magistrate, Delhi may deem fit:

Provided that the Chief Metropolitan Magistrate, Delhi shall not take cognizance of any offence under this section save on a complaint filed by the Commission or any of its officers authorized by it.

14. As seen above, it is clear that to invoke the provisions of the Section 42 of the Act, there needs to be a failure on the part of a person/party to "comply with the orders or directions" issued to him under the law by the Commission or its functionary such as Director General.

15. The Commission notes that the Informant in the application has alleged that DTCP by issuing an office Order dated 16.01.2024 had contravened orders dated 01.08.2018 and 13.07.2022 passed by the Commission.

16. In the above context it is pertinent to note that in this matter, the interim order of the Commission dated O 1.08.2018 was operational only till the final order of the Commission was passed, at which point it ceased to be in force. The interim order explicitly stated:

"25 This order shall remain in operation till the final disposal of the proceedings before the Commission or till further orders, whichever occurs earlier."

17. The Commission further observes that vide order dated 13.07.2022 no directions were issued to the OPs under the provisions of the Act. The relevant excerpt from the final decision dated 13.07.2022 is as follows:

"15. Having considered the aforesaid developments, the Commission is satisfied that DTCP has taken earnest steps to address the concerns of the builders as reflected in the aforesaid order passed by DTCP and consequent resolution passed by CREDAI-NCR seeking withdrawal of Case No. 40 of 2017 7 the present case. Having bestowed thoughtful consideration, the Commission is of the opinion that no useful purpose would be served in proceeding with the present matter in light of the aforesaid developments. Accordingly, the Commission decides to close the matter forth-with against OP-1 and OP-2. As a result, nothing would survive against the four officers of DTCP viz. Shri Anurag Rastogi, Shri Arun Gupta, Shri T L. Satyaprakash and Shri K Ai Pandurang - who



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were the Director(s) General and Director(s) at the relevant time of DTCP and the proceedings against them also stand closed forthwith.”

18. Viewed in the aforesaid backdrop, the Commission is of the considered opinion that, there is no occasion for failure to comply with orders/directions, as no directives were included in the final order. Therefore, the present application of the Informant is not maintainable under section 42 of the Act. Resultantly, the application stands dismissed.”

17. In the aforesaid conspectus, the present petition came to be filed by the petitioners.

18. Learned senior counsel on behalf of the petitioners submit that the closure of case by the respondent no.1 vide order dated 13.07.2022 was premised upon the office order dated 02.05.2019 issued by the respondent no.2. Thus, the withdrawal of the office order dated 02.05.2019 by the respondent no.2 vide office order dated 16.01.2024 is with a view to defeat/circumvent the findings of the respondent no. 1.

19. It is further submitted that respondent no.2 misled the respondent no.1 and petitioners into believing that vide office memorandum dated 02.05.2019, requisite steps have been taken to resolve the concerns raised by the petitioners.

20. Learned senior counsel on behalf of respondent no.1 submits that attempt to invoke Section 42 of the Competition Act is baseless since neither order dated 01.08.2018 nor order dated 13.07.2022 issued instructions/directions which were conclusive and binding in nature. Furthermore, the interim order dated 01.08.2018 which the petitioners rely upon ceased to be operative following the closure of the case vide order dated 13.07.2022 (at the behest of the petitioner). It is thus stated that the



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only remedy available to the petitioners is to file a fresh information before the respondent no.1.

21. Learned counsel on behalf of respondent no.2 submits that the grievance/s raised by the petitioners as regards levy of EDC, is also the subject matter of petition/s filed by certain members of CREDAI/petitioner, before the Punjab and Haryana High Court in CWP No. 9558 of 2015, alongwith connected matters. *Vide* an order dated 15.12.2015, the said petitions were dismissed. It is further submitted that the aforesaid order was challenged in Civil Appeal no. 1026/2021 alongwith connected matters before the Supreme Court ; however, *vide* an order dated 18.07.2024 the same was also dismissed. In light of the aforesaid, it is submitted that the issue pertaining to EDC has attained finality.

22. It is further submitted by the learned counsel on behalf of respondent no.2 that WP(C) 1209/2020 filed by the petitioner association (CREDAI) before the Supreme Court, came to be dismissed as withdrawn *vide* order dated 28.04.2023.

23. The above submissions of the respondent No. 2 have been strongly refuted on behalf of the petitioner/s.

24. After some hearing, counsel for the petitioners in these matters, confine themselves to seeking that the present petitions be treated as 'information' under Section 19(1)(a) of the Competition Act, and duly considered by Respondent No. 1. It is directed accordingly. The petitioners shall comply with the requisite procedural formalities as prescribed by the respondent no.1, including payment of the prescribed fees.

25. In view of the anomalous conduct of the respondent no. 2, as



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highlighted by the petitioners, the respondent no.1 is requested to bestow its urgent consideration to the matter. While considering the matter, the respondent no.1 shall also take into account the order/s of the Supreme Court with regard to the levy of EDC, which may have a bearing on the complaint of the petitioners in the present case. The respondent no.1 shall also take into account the previous investigation report already conducted by the Director General as referred to in paragraph 11 of the order dated 13.07.2022 passed by the respondent no.1.

26. The petitioner is also at liberty to move an appropriate application under Section 33 of the Competition Act seeking interim orders in line with the interim order previously passed by the Commission *vide* order dated 01.08.2018. The same shall be considered by the respondent no.1 in accordance with law.

27. Mr. Balbir Singh, learned senior counsel for the respondent no.1 assures that the matter shall be examined and taken up by the respondent no.1, on priority.

28. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the case.

29. The petitions are disposed of in the above terms. Pending applications also stand disposed of.

SACHIN DATTA, J

APRIL 7, 2025/at/sl