



**COMPETITION COMMISSION OF INDIA**

**Case No. 62 of 2016**

**In re:**

**XYZ**

**Informant**

**And**

**Association of Man-made Fibre Industry of India      Opposite Party No. 1**

**Grasim Industries Ltd.      Opposite Party No. 2**

**Group Companies of Aditya Birla and Grasim Industries Ltd. Group**

**(i) Thai Rayon      Opposite Party No. 3**

**(ii) Indo Bharat Rayon      Opposite Party No. 4**

**CORAM**

**Mr. Devender Kumar Sikri  
Chairperson**

**Mr. S. L. Bunker  
Member**

**Mr. Sudhir Mital  
Member**

**Mr. Augustine Peter  
Member**

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**Mr. U. C. Nahta**  
**Member**

**Justice G. P. Mittal**  
**Member**

**Order under Section 26(1) of the Competition Act, 2002**

1. The information in this case has been filed by a non-profit organisation, which has sought confidentiality of its identity, under Section 19(1)(a) of the Competition Act, 2002 (the 'Act') against Association of Man-made Fibre Industry of India ('OP 1'), Grasim Industries Ltd. ('OP 2'), and Group Companies of Aditya Birla and Grasim Industries Ltd. Group: (i) Thai Rayon, Thailand ('OP 3') and (ii) Indo Bharat Rayon, Indonesia ('OP 4') alleging, *inter alia*, contravention of the provisions of Section 4 of the Act.
2. OP 1 is stated to be an association of man-made fibre manufacturers in India. It is submitted that OP 2 is the largest producer and seller of Viscose Staple Fibre (VSF) in India with a market share of 90%. VSF is used as a raw material in the textile industry for manufacturing of viscose yarn. Viscose yarn is used to manufacture fabric which in turn is used for producing readymade garments and various types of apparels. VSF is also used in manufacturing of high-quality carpets and upholstery.
3. It is alleged that by offering different discount rates to different customers, OP 2 has been indulging in the practice of price discrimination which is unfair. It is averred that OP 2 is charging different prices from different customers in the domestic market and is following the same practice between domestic and foreign customers. OP 2 is selling VSF at lower rates to its international



customers, whereas it is selling the same product at much higher prices to the domestic customers. Further, to practice the policy of discriminatory pricing, OP 2 has segmented the domestic customers into two groups namely, the domestic customers who are solely producing for the domestic market and the domestic customers who are producing for export. It is averred that such practice of OP 2 keeps some customers at a competitive disadvantageous position *vis-a-vis* their counterparts in the market. Further, it is alleged that OP 2 is forcing its domestic customers to submit their monthly production data before deciding the discount rate applicable to them. It is also stated that OP 2 follows non-transparent practice while invoicing and refuses to disclose its discount policies to the customers.

4. As per the Informant, OP 2 was instrumental in imposing anti-dumping duties on VSF products imported from China whereas OP 2 has been importing VSF products from its group companies such as OP 3 and OP 4 located in Thailand and Indonesia respectively without any such duties. It is stated that OP 2's import from Thailand had increased substantially after imposition of anti-dumping duties upon China. It is also alleged that since OP 2 sells its excess production in international markets at prices much lower than the domestic market, the cost of raw materials for the local manufacturers becomes higher than their foreign counterparts. As a result, the local manufacturers are unable to compete in the international markets.
5. Aggrieved by the above said alleged anti-competitive conduct of OPs, the Informant has requested the Commission to direct the Director General ('DG') to cause an investigation into the matter. The Informant has also requested the Commission for grant of interim relief in the matter.



6. The Commission has perused the information and other material available on record. It is observed that the contentions of the Informant relate to the alleged abusive conduct of OP 2 in imposing discriminatory discount policy on sale of VSF to the domestic customers; controlling volume of production of VSF in the domestic market and arbitrarily cutting down the production of VSF to increase its prices; monitoring the domestic customers by collecting details of their consumption, production and sales; and denying discounts to those who are not complying with its directions. It is further observed that the Informant has failed to substantiate any allegations against OP 1.
  
7. To delineate the relevant market in the instant case, it is essential to understand the difference between natural fibre and man-made fibre and its use in the textile industry. It is to be noted that man-made fibres have unique chemical formulation/ composition and have distinct characteristics that distinguish man-made fibres from natural fibres. VSF is one of such man made fibre and is manufactured from organic wood pulp. Other man-made fibres are manufactured as a by-product of petroleum. It is observed that every type of man-made fibre has its own unique physical and chemical properties and different characteristics. Hence, every type of man-made fibre cannot be considered as substitutable or interchangeable to each other. Accordingly, the relevant product market to be considered in this case is '*the market of Viscose Staple Fibre*'. With regard to the relevant geographic market, the Commission notes that VSF is mostly used for manufacture of textile products and the customers of VSF are scattered throughout India. It is observed that with respect to the market of VSF, the territory of India exhibits homogeneous and distinct market conditions. Therefore, the relevant geographic market in this case may be considered as the '*territory of India*'. Accordingly, the relevant market in the instant case may be delineated as the '*market of Viscose Staple Fibre in India*'.



8. Having defined the relevant market, it is to be determined whether OP 2 is dominant in the aforesaid relevant market or not. In this regard, it is observed that OP 2 had a market share of 90.92% in the production of VSF in the year 2014-15 in India and it has been consistently holding a market share of over 90% in the preceding four years. Further, it is observed that there are no other domestic manufacturers producing/ marketing VSF in the domestic market. Therefore, the domestic buyers are essentially dependent upon OP 2 for their requirements of VSF. Further, the Commission observes that as of 2014-15, OP 2 had a production capacity of 4,36,065 MT whereas the entire demand for VSF in India during the same period was 3,09,345 MT which is only 70.94% of the total production capacity of OP 2. It is observed that OP 2 has been maintaining over 30% to 31% of excess production capacity of VSF over and above the domestic demand thereby creating and sustaining effective barrier to entry in the manufacture and sale of VSF. Based on the above, the Commission is of the view that OP 2 is dominant in the aforesaid relevant market.
9. Coming to the examination of the alleged abusive conduct of OP 2, the Commission notes that OP 2 and its subsidiaries are present throughout the entire value chain of textile products made out of viscose fibre, starting right from manufacture of viscose fibre (the primary raw material produced by OP 2, OP 3 and OP 4) which is used to produce viscose yarn. The viscose yarn is then spun by the spinning mills to produce viscose fabrics (both blended and non-blended varieties) which is then used for knitting ready-made garments/ apparels. Further, OP 2 and its subsidiaries market those readymade garments/ apparels through their own brands as well such as *Peter England, Van Heusen, Louis Phillipe, Allen Solly etc.* and also sells them through their own retail outlets such as *Planet Fashion and Pantaloons*.



10. It is also observed that while OP 2 offers the domestic customers selling their textile products that compete with OP 2's subsidiaries in the downstream domestic market a discount of only Rs.7/- to 10/- per kg of yarn, it provides a much larger discount of Rs.20/- to 25/- per kg to those domestic customers who export their textile products. From the invoices submitted, it is also observed that OP 2 has been billing VSF at a commercial weight which is 13% more than the actual weight sold by it. It also appears that OP 2 in order to protect its business interests, alongwith its entire value chain in the domestic market, has adopted discriminatory pricing policy by segmenting the buyers in the VSF market which is unfair and discriminatory in terms of Section 4(2)(a)(ii) of the Act. Further, the Commission observes that OP 2 has been leveraging its strength derived from the relevant market of manufacture and sale of VSF in the downstream markets of manufacture and sale of textile products which is in contravention of the provisions of Section 4(2)(e) of the Act.
11. Based on the above discussion, the Commission is of the *prima facie* view that OP 2 appears to be imposing unfair and discriminatory pricing on the Informant and certain other textile manufacturers and leveraging its dominant position in the relevant market of VSF in the downstream market of textile products in contravention of the provisions of Section 4 of the Act. Accordingly, the Commission directs the Director General (DG) to cause investigation into the matter under the provisions of Section 26(1) of the Act.
12. The Commission also directs DG to complete the investigation and file a report on the same within a period of 60 days from the date of receipt of this order.
13. The Commission makes it clear that nothing stated in this order shall tantamount to a final expression of opinion on the merits of the case, and the



DG shall conduct the investigation without being swayed in any manner whatsoever by the observations made herein.

14. The Secretary is directed to send a copy of this order to DG, along with the information and other submissions filed by the Informant.

**Sd/-**  
**(Devender Kumar Sikri)**  
**Chairperson**

**Sd/-**  
**(S. L. Bunker)**  
**Member**

**Sd/-**  
**(Sudhir Mital)**  
**Member**

**Sd/-**  
**(Augustine Peter)**  
**Member**

**Sd/-**  
**(U. C. Nahta)**  
**Member**

**Sd/-**  
**(Justice G. P. Mittal)**  
**Member**

**New Delhi**  
**Date: 10.11.2016**