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Liquor makers approach NCLAT against CCI order on Kerala market

Allege 'abuse of dominant position' by KSBC; tribunal calls for hearing on Feb 28

PRESS TRUST OF INDIA

New Delhi, January 26

Liquor industry bodies, CIABC and ADBVI, have approached the National Company Law Appellate Tribunal (NCLAT) alleging abuse of dominant position by the Kerala State Beverages (Manufacturing and Marketing) Corporation (KSBC) in the State.

The Confederation of Indian Alcoholic Beverage Companies (CIABC) and Association of Distillers Brewers and Vintners of India (ADBVI) challenged an earlier order passed by the Competition Commission of India (CCI), which in October 2020, had rejected their pleas and said there exists no prima facie case.

Notice issued

The NCLAT on January 24 issued a notice to the KSBC and Travancore Sugar and Chemicals Ltd (TSCL) on their pleas.

"Issue notice to Respondents No. 2 (KSBC) and 3 (TSCL) returnable within four weeks. Requisites along with process fee be filed within three days," the NCLAT order said.

The appellate tribunal has fixed February 28 as the next date of hearing.

KSBC is a public sector body entrusted with exclusive control over the procurement, wholesale and retail sale of liquor in the State.

In 2001, KSBC was also entrusted with the majority of retail outlets for the sale of alcoholic beverages in Kerala.

Allegations against KSBC

The associations had submitted before the CCI that the entire supply chain, from procurement to distribution and sale of liquor, including India Made Foreign Liquor (IMFL), beer, wine, Foreign Made Foreign Liquor (FMFL) and Foreign Made Wine (FMW), in Kerala is controlled by it.

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They had alleged that KSBC, for the purpose of procurement of liquor, floats tenders periodically, inviting liquor manufacturers to participate, and "unilaterally and unfairly" fixes the contract price. Moreover, abusing its dominant position, it imposes "unfair and discriminatory prices and terms on private alcoholic beverages manufacturers as against government brands and leverages its monopoly position by providing favourable prices as well as terms and conditions in the purchase of the product of TSCL."

It was alleged that KSBC grants preferential treatment to TSCL in terms of lower wholesale margin, lower cash discount, and priority in unloading at depots, thereby placing private brands at a competitive disadvantage.

However, this was rejected by the CCI, which observed that several manufacturers were supplying multiple liquor brands to KSBC whereas TSCL was supplying only one brand of rum.

The CCI had also observed that the complainants had not been able to demonstrate how competition, in general, with the existence of so many brands in the market, was adversely affected.