



**Luthra *and* Luthra**

LAW OFFICES INDIA

## COMPETITION LAW ALERT

*Newsletter – February 2026 Edition*





## INSIDE

- **Supreme Court sets aside NCLAT’s direction for probe against Flipkart, remands the matter for fresh consideration**
- **Supreme Court stays NCLAT’s order limiting CCI’s jurisdiction over patent disputes**
- **Supreme Court declines to interfere with CCI’s probe Into JioStar, reaffirming parallel jurisdiction of Competition law and TRAI framework**
- **NCLAT set aside CCI order in Chettinad Coal Terminal case, remands matter back to the CCI for fresh examination**
- **NCLAT upholds CCI’s closure of allegations relating to CDA procurement in Nagpur–Mumbai expressway project**
- **NCLAT affirms CCI’s power to close abuse of dominance complaint at prima facie stage without notice**
- **CCI orders probe against IndiGo over alleged abuse of dominance following large-scale flight cancellations and fare surge**
- **CCI Imposes penalty on Allcargo for failure to notify change from joint to sole control over Gati Express**
- **U.S. DOJ Antitrust Division issues first-ever \$1M Whistleblower Reward under new program**



## **KEY ANTITRUST DEVELOPMENTS**

### **Supreme Court sets aside NCLAT's direction for probe against Flipkart, remands the matter for fresh consideration**

The Supreme Court of India (“SC”) vide its judgment dated 03.02.2026, set aside a 2020 order of the National Company Law Appellate Tribunal (“NCLAT/Tribunal”) and remanded the matter back to the NCLAT for fresh consideration, while expressly keeping all issues open.

By way of background, in November 2018, the Competition Commission of India (“CCI”) had dismissed an information filed by the All India Online Vendors Association’s (“AIOVA”) against Flipkart and Amazon under Section 26(2) of the Competition Act, 2002, (“**Competition Act**”) holding that their conduct did not violate provisions of the Competition Act. However, in March 2020, the NCLAT set aside the CCI’s order and held that a *prima facie* case under Section 4 of the Competition Act was made out against Flipkart, directing investigation by the DG. The SC intervened after accepting Flipkart’s submission that the NCLAT’s earlier order had relied substantially on observations made by an Assessing Officer in income-tax proceedings, which were subsequently set aside by the Income Tax Appellate Tribunal (“ITAT”) and consequently remanded the matter back to the NCLAT for reconsideration.

### **Supreme Court stays NCLAT's order limiting CCI's jurisdiction over patent disputes**

The SC vide its [order](#) dated 02.02.2026, stayed portions of a NCLAT [judgement](#) which had held that the CCI lacked jurisdiction to examine competition law complaints arising from the exercise of patent rights. The SC indicated that it would examine the jurisdictional question concerning the applicability of the Competition Act to patent-related disputes, while clarifying that the stay was confined to the issue of jurisdiction and did not extend to the merits of the underlying case.

The appeal before the SC arose from an NCLAT judgment, which had upheld the CCI’s [order](#) closing a complaint against Vifor International AG relating to its patented drug Ferric Carboxymaltose. While the CCI had dismissed the complaint on merits, the NCLAT went further and held that the CCI lacked jurisdiction altogether to examine allegations of abuse of dominance where the conduct complained of was intrinsically linked to the exercise of patent rights. The NCLAT had reasoned that the Patents Act, 1970, being a special legislation, would prevail over the Competition Act in such cases.

### **Supreme Court declines to interfere with CCI's probe into JioStar, reaffirming parallel jurisdiction of Competition law and TRAI framework**

The SC vide its [order](#) dated 27.01.2026, dismissed a special leave petition filed by JioStar India Private Limited (“**JioStar**”) against a judgment of the division bench of the Kerala High Court (“**KHC**”). The division bench had permitted the CCI to proceed with its investigation into allegations of abuse of dominant



position in the Kerala cable television market. A bench comprising Justice JB Pardiwala and Justice Sandeep Mehta refused to interfere, stating that the investigation is at the preliminary stage.

### **NCLAT set aside CCI order in Chettinad Coal Terminal case, remands matter back to the CCI for fresh examination**

The NCLAT, vide its [judgment](#) dated 21.01.2026, set aside the CCI's [order](#) dated 09.04.2021 whereby the CCI had closed proceedings against Chettinad International Coal Terminal Private Limited (now Ennore Coal Terminal Pvt. Ltd.) (“**Chettinad**”) for alleged abuse of dominant position. The appeal was filed by the Tamil Nadu Power Producers’ Association (“**TNPPA**”)

The dispute arose after coal handling operations at Chennai Port were prohibited pursuant to directions of the Madras High Court on environmental grounds, following which Chettinad’s common user coal terminal at Kamarajar Port became the nearest and most economically viable facility for coal imports by thermal power plants located in the Gumidipoondi industrial region. TNPPA alleged that, in the absence of viable alternatives, Chettinad acquired a position of dominance and imposed unfair and excessive coal handling charges, including mandatory “coordination and liaisoning charges” levied through third-party entities allegedly linked to the Chettinad group, which were not reflected in the published tariff.

While the DG in its supplementary investigation report, had concluded that the relevant market was the provision of common user coal terminal services in and around Kamarajar Port and found Chettinad to be dominant, the CCI, in its final order, expanded the relevant geographic market and on that basis held that Chettinad did not enjoy dominance and closed the case.

The NCLAT found this approach to be flawed, holding that the CCI had departed from both its own *prima facie* findings and the DG’s supplementary report without adequate reasoning. The NCLAT further observed that the evidence on record indicated that the alleged coordination and liaisoning charges were mandatory in practice, uniformly imposed on users, and routed through entities effectively controlled by the Chettinad group. It noted that once dominance was established, the imposition of such supplementary and non-transparent charges could amount to abuse under Section 4 of the Competition Act, 2002. Accordingly, the NCLAT set aside the CCI’s order and remanded the matter back to the CCI for fresh consideration.

### **NCLAT upholds CCI’s closure of allegations relating to CDA procurement in Nagpur–Mumbai expressway project**

The NCLAT vide its [judgement](#) dated 20.01.2026, dismissed an appeal filed by M/s Apaar Infratech Private Limited (“**Appellant/ Apaar**”) and upheld the CCI’s [order](#) wherein it had closed the information alleging abuse of dominance and cartelisation in relation to the procurement of Crystalline Durability Admixture (“**CDA**”) for the Nagpur–Mumbai Super Communication Expressway Project.



The information was filed by Apaar before the CCI against Maharashtra State Road Development Corporation Limited (“MSRDC”) and a few others (collectively referred as “the OPs”), alleging abuse of dominance by prescribing Indian Road Congress (“IRC”) accreditation for inclusion in the Identified Vendor List (“IVL”) while allegedly including non-accredited entities, and cartelisation by the other OPs. The CCI held that MSRDC was not dominant, that mere prescription of IRC accreditation was not unfair or discriminatory, and that the alleged cartel involved vertical/intra-group relationships which cannot be examined under Section 3(3) of the Competition Act and accordingly closed the matter.

On appeal, the NCLAT rejected the Appellant’s contention that an investigation under Section 26(1) was mandatory due to non-filing of a reply by MSRDC and upheld the CCI’s discretion to close a case at the *prima facie* stage. It affirmed that Section 3(3) of the Competition Act applies only to horizontal agreements. It further upheld the CCI’s delineation of the relevant geographic market as India and agreed that absence of dominance precludes examination of abuse under Section 4 of the Competition Act, irrespective of whether the entity is a government body. The NCLAT also found no procedural infirmity in the CCI’s approach and dismissed the appeal.

### **NCLAT affirms CCI’s power to close abuse of dominance complaint at prima facie stage without notice**

The NCLAT vide its [judgement](#) dated 13.01.2026, dismissed an appeal filed by Karnataka Power Corporation Limited (“KPCL/ Appellant”). KPCL had questioned the CCI’s [decision](#) to decline investigation into allegations concerning the supply of non-coking coal without issuing notice or granting a hearing.

The dispute arose from an information filed by KPCL against the Singareni Collieries Company Limited (“SCCL”), wherein it was contended that SCCL, either independently or in concert with Coal India Limited (“CIL”), had engaged in exclusionary and discriminatory conduct in the supply of non-coking coal to thermal power generators. KPCL further argued that the CCI had erred in closing the matter without issuing notice or affording an opportunity of hearing, thereby violating principles of natural justice.

Aggrieved by the closure, KPCL approached the NCLAT, contending that the CCI was statutorily obliged to issue notice and grant a hearing prior to closing the information, particularly since serious allegations had been raised.

Rejecting these submissions, the NCLAT held that Section 26(2) of the Competition Act does not contemplate issuance of notice or grant of hearing, and that the statutory scheme clearly distinguishes between the *prima facie stage* and the investigation stage. The NCLAT also noted that the CCI had, in fact, gone beyond the minimum statutory requirement by passing a reasoned order on merits, despite being empowered to close the matter at the threshold.



Finding no procedural irregularity, perversity, or error of law in the CCI's approach, the NCLAT declined to interfere with the impugned order and dismissed the appeal, thereby reaffirming the CCI's discretion to close information at the *prima facie* stage where no case for investigation is made out.

### **CCI orders probe against IndiGo over alleged abuse of dominance following large-scale flight cancellations and fare surge**

The CCI vide its [order](#) dated 04.02.2026, has directed the DG to investigate allegations of abuse of dominance against InterGlobe Aviation Limited (“**IndiGo**”) in connection with widespread flight cancellations and alleged excessive pricing during the first week of December 2025. The proceedings were initiated on the basis of an information filed by an individual informant, alleging that IndiGo cancelled hundreds of flights across its network, leaving passengers stranded and subsequently charging significantly higher fares on the same routes.

As a preliminary issue, IndiGo challenged the jurisdiction of the CCI, contending that the subject matter fell exclusively within the regulatory domain of the Directorate General of Civil Aviation (“**DGCA**”) under the Bhartiya Vayuyan Adhiniyam, 2024 and the Aircraft Rules, 1937.

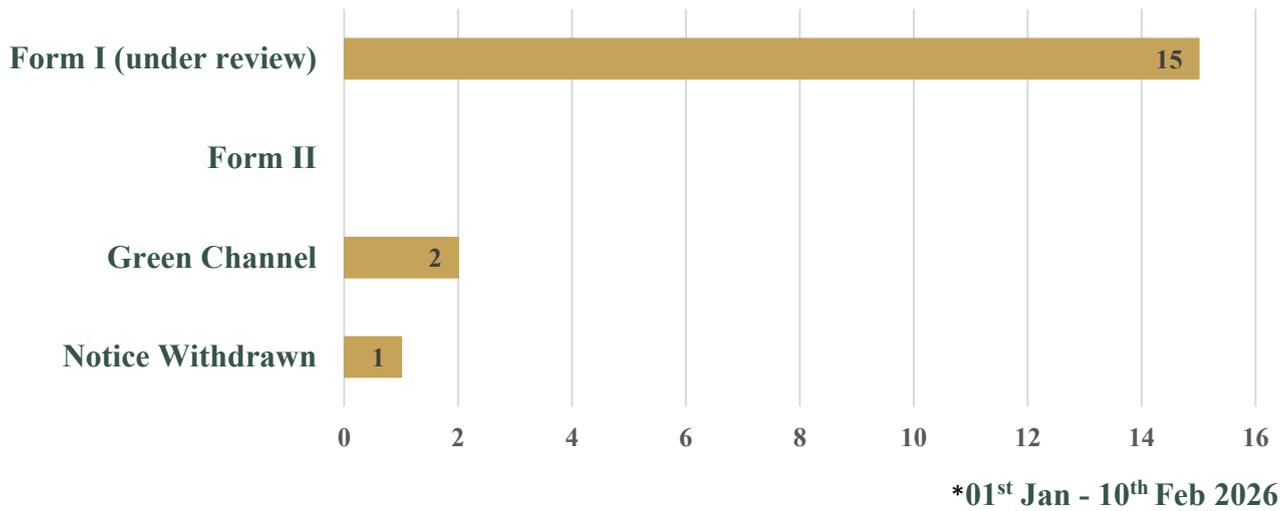
The CCI rejected these jurisdictional objections, holding that sectoral regulation and competition law operate in distinct but complementary spheres.

The CCI formed a *prima facie* view that IndiGo held a dominant position in the relevant market. The CCI further observed that large-scale cancellations created an artificial scarcity of capacity, leaving consumers with no viable alternatives and forcing them to purchase tickets at significantly higher prices. Such conduct was found, at a *prima facie* level, to potentially amount to imposition of unfair prices and restriction of provision of services by a dominant enterprise.

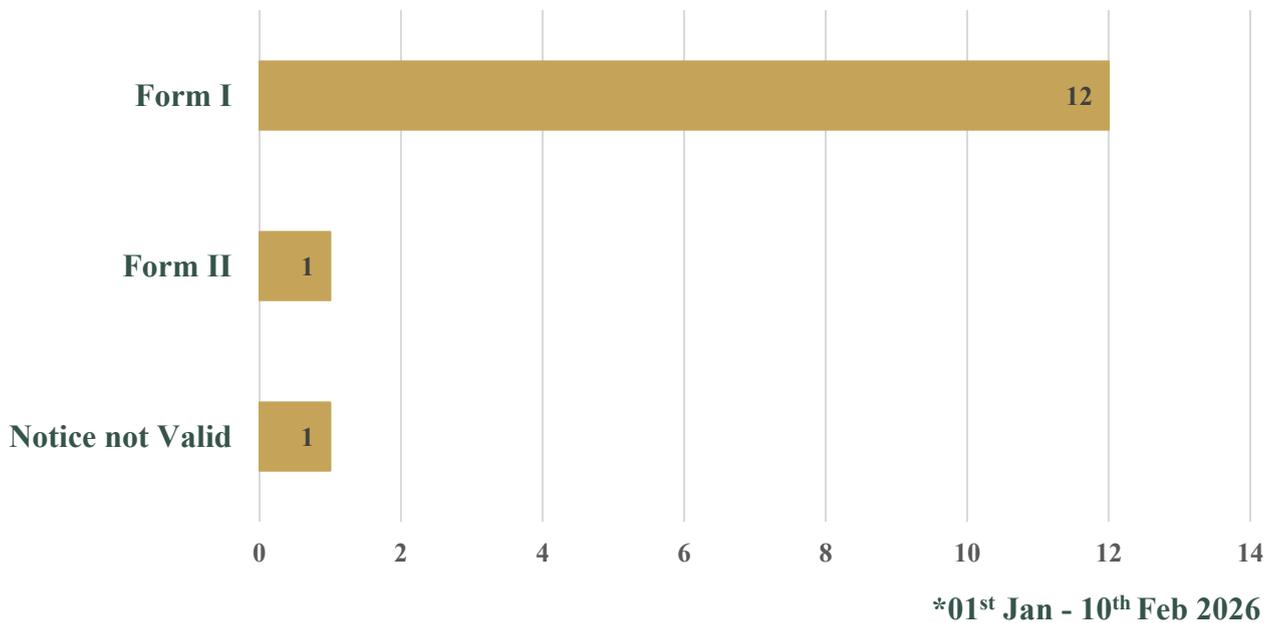


**MERGER CONTROL DEVELOPMENTS**

**Forms Filed**



**Forms Approved**





## **CCI Imposes penalty on Allcargo for failure to notify change from joint to sole control over Gati Express**

The CCI, vide its [order](#) dated 08.01.2026, imposed a penalty of INR. 50 lakhs on Allcargo Logistics Limited (“**Allcargo**”) under Section 43A of the Act for consummating a notifiable combination without prior approval of the Commission. The proceedings arose in relation to acquisition of 30% stake in Gati-Kintetsu Express Private Limited (“**Gati Express/Target**”) by Allcargo from KWE-Kintetsu World Express (S) Pte. Ltd. (“**KWE Singapore**”) and KWE Kintetsu Express (India) Private Limited (“**KWE India**”) (collectively, “**KWE**”) [**Transaction**].

The Commission noted that while Allcargo had majority shareholding prior to the transaction, KWE’s 30% stake conferred veto rights over special resolutions under the Companies Act, 2013, as well as additional veto rights over reserved matters under the shareholders’ agreement. The CCI held that these rights amounted to negative control, resulting in joint control over the target prior to the transaction. Consequently, the acquisition led to a change in control from joint control to sole control, taking the transaction outside the scope of Item 2 of Schedule I of the CCI (Procedure in regard to the transaction of Business relating to Combinations) Regulations, 2011, and rendering it mandatorily notifiable.

The Commission clarified that the assessment of notifiability is distinct from the assessment of competitive effects, and that absence of AAEC cannot excuse failure to notify a transaction.

### **KEY GLOBAL ANTITRUST DEVELOPMENTS**

#### **U.S. DOJ Antitrust Division issues first-ever \$1M Whistleblower Reward under new program**

In a novel development in the Competition law sphere, the U.S. Department of Justice’s Antitrust Division (“**DOJ**”), in partnership with the U.S. Postal Service (“**USPS**”), awarded its first-ever whistleblower payment of USD 1 million under the DOJ’s new Antitrust Whistleblower Rewards Program on [29.01.2026](#), marking a significant milestone in U.S. antitrust enforcement. The [program](#), launched in July 2025, is designed to incentivise individuals to report original, non-public information about criminal antitrust violations and related offenses that ultimately result in criminal fines or recoveries of at least USD 1 million, with eligible whistleblowers potentially receiving up to 30% of the amounts collected.

The development materially alters the risk calculus for companies, increasing the likelihood that employees or third parties may report suspected collusion directly to authorities, and is expected to drive greater self-reporting under the DOJ’s leniency program. In India, while individuals can act as a whistleblower and disclose evidence of anti-competitive conduct, incentives are limited to potential reduction in penalty, and no monetary reward as such are awarded.



*This newsletter is only for general informational purposes, and nothing in this edition of the newsletter could possibly constitute legal advice (which can only be given after being formally engaged and familiarizing ourselves with all the relevant facts). However, should you have any queries, require any assistance, or clarifications with regard to anything contained in this newsletter (or competition law in general), please feel free to contact Harry Chawla / Arjun Nihal Singh, at the below mentioned coordinates. © Luthra and Luthra Law Offices India 2025. All rights reserved.*

## **KEY CONTACTS**



**HARRY CHAWLA**

Managing Partner

Email - [harry.chawla@luthra.com](mailto:harry.chawla@luthra.com)



**ARJUN NIHAL SINGH**

Partner

Email - [ansingh@luthra.com](mailto:ansingh@luthra.com)



**MANAV GUPTA**

Senior Associate

Email - [manavg@luthra.com](mailto:manavg@luthra.com)

## **OFFICES**



### **NEW DELHI**

1st and 9th Floors, Ashoka Estate,  
24 Barakhamba Road, New Delhi - 110 001  
T: +91 11 4121 5100  
F: +91 11 2372 3909  
E: [delhi@luthra.com](mailto:delhi@luthra.com)



### **MUMBAI**

20th Floor, Indiabulls Finance Center,  
Tower 2 Unit A2, Elphinstone Road,  
Senapati Bapat Marg, Mumbai - 400 013  
T: +91 22 4354 7000  
F: +91 22 6630 3700  
E: [mumbai@luthra.com](mailto:mumbai@luthra.com)



### **BENGALURU**

3rd Floor, Onyx Centre, No. 5, Museum Road,  
Bengaluru - 560 001  
T: +91 80 4112 2800 / +91 80 4165 9245  
F: +91 80 4112 2332  
E: [bengaluru@luthra.com](mailto:bengaluru@luthra.com)



### **HYDERABAD**

Serene Towers,  
House No. 8-2-623/A,  
Road No. 10, Banjara Hills,  
Hyderabad, Telangana - 500034  
T: +91 40 7969 6162  
E: [hyderabad@luthra.com](mailto:hyderabad@luthra.com)



### **CHENNAI**

Prestige Palladium Bayan,  
8th Floor, Greams Road, Nungambakkam Division,  
Egmore, Chennai - 600 006,  
Tamil Nadu  
T: +91 95604 88155  
E: [chennai@luthra.com](mailto:chennai@luthra.com)