

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 2508 of 2025 in
Competition Appeal (AT) No. 4 of 2023

IN THE MATTER OF:

Alphabet Inc. & Ors.

...Appellants

Versus

Competition Commission of India & Anr.

...Respondents

Present:

For Appellant

: Mr. Sajan Poovayya and Mr. Ritin Rai, Sr. Advocates with Mr. Karan Chanhiok, Ms. Deeksha Manchanda, Ms. Tarun Donadi, Ms. Bhavika Chhabra, Mr. Kaustav Kundu, Ms. Aavantika Kakkar, Ms. Raksha Aggarwal, Mr. Palash Maheshwari, Mr. Dayaar Singla, Mr. Vijyendra Pratap Singh and Ms. Sayobani Basu, Advocates.

Mr. Balbir Singh, Mr. Samar Bansal, Mr. Manu Chaturvedi, Ms. Monica Benjamin, Mr. Kaustubh Chaturvedi, Mr. Vedant Kapur, Ms. Shivali Shah, Advocates for Applicant and R-1/ CCI a/w Ms. Sunaina Dutta- Joint Director Law CCI.

For Respondents

: Mr. Jayant Mehta Sr. Advocate with Mr. Abir Roy, Mr. Vivek Pandey, Mr. Aman Shankar, Ms. Biyanka Bhatia, Ms. Shreya Kapoor, Mr. S. Panda and Mr. Rajat Sinha, Advocates for R-3.

O R D E R
(Hybrid Mode)

01.05.2025: **I.A. No. 2508 of 2025**

This is an application praying for correction of inadvertent mistake in the operative portion of the order, paragraph 107(iii). Ld. Counsel for the applicant submits that this Tribunal while dealing with directions under 395.1 to 395.8 in para 93 of the body of judgment held that directions contained under paragraph 395.4 and 395.5 related to the findings of

violation of Section 4(2)(e) which directions are sustained. It is submitted that however, in the operative portion of the order by mistake directions issued in paragraph 395.4 and 395.5 have been set aside.

2. Shri Poovayya Ld. Sr. Counsel for the Appellant has referred to paragraph 77 and 79 of the judgment and said that the directions are inconsonance with the body of the judgment of this Tribunal. Shri Poovayya further submits that applications filed by the commission amounts to review of the order.

3. We have considered submissions of both the parties and perused the records. Paragraph 93 of the judgment where this Tribunal has dealt the directions from 395.1 to 395.8 issued by the commission is as follows:-

“93. Now, we come to remedies as provided in paragraph 395, where in terms of provisions of Section 27 of the Act, the Commission has directed Google to ‘cease’ and ‘desist’ from indulging in anti-competitive practices. The measures indicated by the Commission are contained in paragraph 395.1 to 395.8. Now coming to directions under 395.1, we having found that breach of Section 4(2)(a)(i) having been proved in putting discriminatory condition on use of Google Payment Billing System by App Developers, the direction issued under 395.1 are sustained. Directions in paragraph 395.2 and 395.3 are also sustained, in view of findings with regard to violation of Section 4(2)(a)(i) of the Act. Directions under paragraph 395.4 and 395.5 related to the finding of violation of Section 4(2)(e), which directions are sustained. Directions under paragraph 395.6 and 395.7 are general and insofar as price related

condition, the commission itself found no discrimination with regard to fee and commission. Hence, direction under paragraph 395.6 and 395.7 are not sustained. Directions under paragraph 395.8 are sustained.”

The operative portion of paragraph 107(iii) is as follows:-

“107. In view of the foregoing discussions and conclusions, the Appeal is partly allowed in following manner:

- (i)*
- (ii)*
- (iii) The directions issued in paragraphs 395.1, 395.2, 395.3 and 395.8 are upheld. Directions issued in paragraphs 395.4, 395.5, 395.6 and 395.7 are set aside.”*

4. It is settled law that operative portion of an order has to be in consonance with the body of judgment. When in paragraph 93 we have already held *“directions under paragraph 395.4 and 395.5 related to the finding of violation of Section 4(2)(e) which directions are sustained”* hence order to set aside the said directions 395.4 and 395.5 is obviously an inadvertent error, which needs to be corrected.

5. Shri Poovayya submits that the prayer made in the application amounts to review which submission does not commend us. Present is not a case where the commission is asking for review of the judgment but asking for correcting the inadvertent error which does not amount to review of the judgment. We thus allow the application. In paragraph 107(iii) for the following *“directions issued in 395.3 the directions issued in 395.4, 395.5,*

395.6 and 395.7 are set aside” following is substituted. “directions issued in paragraph 395.4 and 395.5 are sustained and directions contained in 395.6 and 395.7 are set aside”. With the above, the application is disposed of.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

harleen/NN