

Chung Tai Resource Technology

Supreme Administrative Court (2016)

Case: The Supreme Administrative Court overruled an appeal filed by
Chung Tai Resource Technology

Keyword(s): CRT, Waste CRT glass market, reuse of waste panel glass

Reference: Supreme Administrative Court Judgment (2016) Pan Tzu No.
267

Industry: Materials Recovery (3830)

Relevant Law(s): Article 19 of the Fair Trade Law

Summary:

1. In the “Waste CRT Glass Reuse Agreement” signed with waste electrical appliance and waste information equipment disposal plants between 2010 and 2012, the appellant (Chung Tai Resource Technology Corp.) took advantage of its dominant status in the waste CRT glass disposal market in stipulating inappropriate provisions to restrict the trading counterparts, transaction amounts and operating plans of the said businesses. The imposition of business activity restrictions as a condition for the said operators to do business with the company was in violation of the Subparagraph 6 of Article 10 of the Fair Trade Law at the time of conduct. Therefore, the appellee cited the first section of Article 41 of the same law and imposed an administrative fine of 2 million NT dollars (same currency applies hereinafter) on the appellant via Disposition Kung Ch’u Tzu No. 104056 (hereinafter referred to as the original sanction) on Jul. 20, 2015. The appellant found the sanction unacceptable and filed an administrative appeal. The Taipei High Administrative Court (hereinafter referred to as the court of original instance) rejected the appeal via the 2015 Verdict Su Tzu No. 1194 (hereinafter referred to as the original verdict). The appellant again found it unacceptable and filed this appeal.

2. The restrictive provisions stipulated by the appellant in the waste CRT glass reuse agreements signed with waste electrical appliance and waste information equipment disposal plants included the following: to regard the appellant the only waste CRT glass reuse factory, not to sign waste CRT glass reuse cooperation agreement with any other enterprise (not to supply waste CRT glass to any other enterprise), not to process waste CRT glass for reuse in their own plants, the amount of waste panel glass provided to be no less than the amount of waste CRT glass provided, and a fine of 2.5 million to be imposed on those violating the agreement. The said clauses had a serious impact on the business activities of the waste electrical appliance and waste information equipment disposal plants and thus made it impossible for them to process waste CRT glass on their own. In other words, the freedom of other enterprises to compete and seek trading counterparts was restricted and the competition on the market could be weakened. Hence, the FTC considered the practice of imposing illegitimate restrictions on the business activities as a condition for trading counterparts to continue business relations with the company was a restraint on market competition or impediment to fair market competition.

After assessing the arguments and evidence presented in this case, the court of original instance pointed out the appellant was not the highest-paying buyer of waste CRT glass in the market and many of the waste electrical appliance and waste information equipment disposal plants (those signing waste CRT glass reuse agreements) had planned to find other companies to deal with. However, because of the restrictions stipulated in the above agreements and the appellant being the only qualified reuse processor for waste items of the C-0102 category, as well as their fear of getting penalized for agreement violations, they continued to do business with the appellant. As a result, the restrictive provisions did lead to market foreclosure.

3. Accordingly, it was a correct decision that the court of original instance maintained the original sanction and overruled the appellant's appeal over the first instance verdict. The appeal's contestation that the original sanction had been in violation of related regulations and had to be discarded was unsound and had to be rejected.

Appendix:

Chung Tai Resource Technology Corp. 's Uniform Invoice Number: 12862116

Summarized by: Lee, Qin-Qing; Supervised by: Ren, Han-Ying