

**Decision on Cardamom auction process in compliance with the order
of the Hon'ble High Court of Kerala at Ernakulam in W.P. (C) No.
23925 of 2018.**

The Hon'ble High Court in its judgment in W.P.(C) No.23925 of 2018 dated 26th September 2018 had directed the Spices Board to immediately convene a meeting of all the stakeholders, including all sections of Cardamom Growers and all the licensed auctioneers and to take an informed decision in the matter with notice to all concerned after considering the contentions of all stakeholders, especially the Cardamom Growers and decision shall be taken by the respondents at the earliest after giving due notice to all concerned by public notice, if necessary, within a period of one month from the date of receipt of a copy of the Judgment. The time limit has been extended by the request of the Spices Board for a further period of 30 days.

As directed in the Judgment referred to above, public notices dated 20/10/2018 were given to all stakeholders, including all sections of Cardamom Growers, all the Licensed Auctioneers and Traders requiring them to submit their written contentions to the Spices Board on or before 29/10/2018. It was also informed them that a meeting of all concerned stakeholders was scheduled to be held on 02/11/2018. The meeting was postponed to 08/11/2018 by a public notice owing to unavoidable circumstances. Accordingly, the written representations were received from the Growers, the Auctioneers and the Traders. The Growers were heard first followed by the Auctioneers and later the Traders during the scheduled meeting on 08/11/2018.

1. During the meeting on 08/11/2018, the views on the Cardamom e-auction was divided among the stakeholders – opting for ‘one auction slot system’ and ‘two auction slot system’.

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2. Those who were in favour of 'one auction slot system' (one auction per day) opined its advantages as in the following:

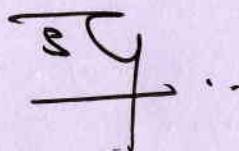
- It allows the traders to get more time to evaluate the cardamom samples which would lead to fetching of more rates for the produce.
- It is easy for the auctioneering company to use the full day efficiently without a break leading to more number of lots getting auctioned.
- As the number of lots would be higher for the entire day, more number of traders can participate in the auction process.
- It gives equal opportunities for the auctioneers to grow their business volumes.

They viewed the following as the disadvantages of 'two auction slot system':

- In case of 'two auction slot system', the average price in the forenoon is higher than that of afternoon which is not the case with 'one auction slot system'.
- The active buyers in the forenoon session would purchase their required quantity of cardamom in the forenoon session itself and would vacate the auction hall leading to less number of buyers in the afternoon. Therefore, the auctioneering companies slated for the afternoon session would be in a disadvantageous position in the 'two action slot system'.
- The arrival quantity of cardamom gets restricted in the 'two auction slot system'.

3. Those who were in favour of 'two auction slot system' (two auctions per day) cited the following advantages:

- The 'two auction slot system' had been working well during last block period (2014-17) without any complaints or hiccups and also till the 'one auction slot system' got introduced.



- The small and marginal farmers could sell their products weekly through the auction company of their choice.
- If the ‘one auction slot system’ is continued, every auctioneer company would have the auction only once in 15 days and the vast majority of farmers cannot sell their cardamom every week through a company of their choice.
- With two auctioneer companies per day, the competition to draw the farmers to sell their produce through their companies increases; thereby, it gives a fair chance of cardamom growers getting more rate for their produce.
- The growers can possibly get early payments within the timeframe.
- In case the growers feel that the rate is not remunerative, they need not warehouse their produce beyond one week.
- It would reduce the ‘re-pooling’ (traders bringing the sold cardamom in one auction to the subsequent actions which eventually reduces the rate for growers’ cardamom) practice to a substantial extent.

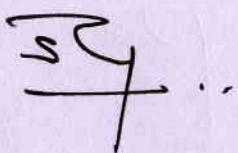
Their opinion on the disadvantages of ‘one auction slot system’ are as in the following:

- Since most of the farmers are attached with a particular auctioneer company, they can pool cardamom only on fortnightly intervals.
- A lot of small and marginal farmers are not given preference in one company’s daylong auction during the peak seasons.
- The human resources and space is underutilised in ‘one auction slot system’ for the auctioneers.
- Traders give preference to buy from specific auctions as the auctioneers provide credit facility. Therefore, the traders are compelled to make purchases for two weeks instead of weekly purchases.
- The cost of bank guarantee required towards security deposit is much higher.



- The farmers and auctioneers have to wait for two weeks if an auction is cancelled due to unforeseen reasons, leading to higher cost of warehousing for a fortnight.
 - In the event of withdrawal of the lot, the growers have to wait for two weeks to re-auction the lot through the same auctioneer. By the time, the quality of cardamom would come down.
 - Since the traders participate in the auction conducted by the auctioneers at fortnightly intervals, it eventually leads to delayed payments to the growers and labourers.
 - Re-pooling by traders would get increased.
4. The one single factor which every stakeholder during the meeting was worried about was 'Re-pooling'. The traders who purchase the produce at an auction bring that produce in full quantity or part thereof to the subsequent auction(s) anticipating a better price. As there is a provision for GST refund available, they take the advantage of it and bring the already purchased produce for auction again and again. Many of the growers questioned the rationale of re-pooling as it gives a false picture of cardamom production and fluctuates the price. They cited the example that the cardamom production has in real terms come down to an estimated 35-40% due to recent unprecedented rains and floods but the inflow of cardamom to the auction centres is surpassing the actual production by miles which is because of 're-pooling' tactics by the traders. They also allege that certain auction companies themselves participate in the auction by forming a separate but related entity and keeping separate books of accounts which is a clear case of conflict of interests arising out of related party transactions.

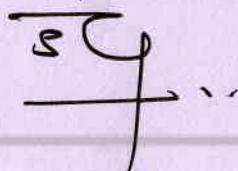
Indian Institute of Plantation Management (IIPM), Bengaluru has studied the cardamom trade in detail and published an important report on 'Assessment of Financial Stability of Auction Houses in Cardamom Trade' in December 2016.



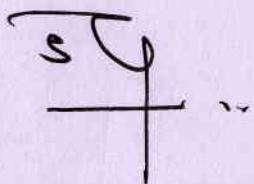
In the report, it is concluded that there is a possibility of cardamom price rigging by related party transactions.

5. When the team of officials which include Secretary, Director (Marketing and Development) and Director (Finance and Research) visited the auction centre at Puttady on 05/12/2018 and the Secretary visited the auction centre at Bodinayakanur on 06/12/2018, the following were observed:

- The e-auction facility is well established with 60 computer terminals at Puttady cardamom auction centre and 70 such e-terminals at Bodinayakanur cardamom auction centre. The present e-auction is definitely superior in terms of transparency and technology compared to the age old 'outcry' method being followed earlier.
- The cardamom lots are displayed in the hall at an assigned place which facilitates the traders to have a look at them before the auction process gets commenced.
- The lots are numbered in a sequence by the auctioneer company, following its own procedure.
- One designated person who has expertise on cardamom quality and corresponding price mechanism commences each lot's auction by 10am and the auction goes up to 6pm and many times beyond 6pm.
- During the auction, the samples are quickly distributed to the traders present before each e-terminal and 6 seconds are given initially in the system itself for anyone to bid. After each bid entry, the 6 second time is regained. When nobody bids in a 6 second time period, the auction for that particular lot gets closed by the system itself, thereby ensuring utmost transparency.
- There are about 600 odd lots could be auctioned in a day from 10am till 6pm with a lunch break of an hour.
- Though the growers wanted to have 7 days a week auctioning, the traders said that it would not be feasible to have auction on all seven days and reiterated for a holiday on Sunday as it is practised at present.

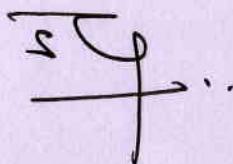


- It was observed during the visit that many traders have pooled the already sold cardamom in the previous auctions and brought them again to the auction, thereby indulging in 're-pooling'. The growers present there mainly complained about it.
 - The growers also complained that the auctioneer company assigns numbers to the lots in such a way that most of the re-pooled lots of the traders get auctioned first. Had it been a random sequence of lots, it would have been not only systematic but also transparent.
 - The growers told that they are not getting the payments within the stipulated 10 days after the auction as the traders take longer time to pay to the auctioneering company resulting in delay on the part of the auctioneer company to make payments to the growers.
6. The following inferences were drawn after the stakeholders meeting and the visit to the cardamom auction centres:
- Re-pooling is the biggest worrying factor in the entire auction process. It affects the price factor negatively and keeps the cardamom growers' produce at a disadvantage. It also gives a false picture on the production of cardamom *per se*. The issue of re-pooling needs to be addressed.
 - The 'lot assessing time' of 6 seconds is the same for both 'one auction slot system' and 'two auction slot system'. It was observed that the traders are having enough experience and expertise to assess the quality of cardamom by its size, litter weight, aroma, and colour within 6 seconds. Most of them were seen doing the assessment in 2-4 seconds. The traders, by and large, have no complaint about assessing the quality of cardamom lot in six seconds.
 - Artificial colouring of cardamom is another issue enveloping the cardamom trade. Artificial colouring leads to rejection of Indian cardamom in international markets and there is an increasing awareness in the domestic market too in the recent times. In spite of which, certain



growers/traders are resorting to artificial colouring which needs to be curbed.

- The growers' cardamom brought to the auction centres and the traders' cardamom brought to the auction centres should be distinguished by some mechanism. The cardamom auction centres are for the auctioning the cardamom of the growers so that they could get fair and remunerative price for their produce. The cardamom auction centres are not for auctioning the re-pooled cardamom of certain traders or trading companies. Hence, there is a need for segregating both categories since there is no provision for excluding the cardamom brought by the traders to the auction centres through the auctioneers.
- The time frame for the auction has to be regulated as any auction after 6pm would lead to the traders not able to assess the quality of the cardamom in artificial lights.
- As the growers are, by and large, attached to a particular auction company out of their own volition, the 'one auction slot system' is at their disadvantage. They have to wait for a fortnight to get their produce for auction and it later affects the quality of cardamom. Their contention that the payment for them is not prompt on account of 'one auction slot system' may be partially correct if not fully, given the fact that the particular grower and the auctioneer return to the auction only after 15 days which gives a time gap for interface with the auctioneer or the trader. Delay in payments to the farmers results in delayed wage payments for the workers in the cardamom plantations.
- There is no substance in the argument that the price for cardamom is higher in the forenoon session of auction compared to afternoon session. Quality of the cardamom is the key factor which fetches a better price irrespective of the auction session – forenoon or afternoon.
- There is an imperative need for the Spices Board to devise an inspection mechanism including surprise checks to periodically inspect the pooling



centres and godowns to verify the registers, stock and the accounts of auctioneers.

Considering the opinion and grievances put forward in various representations by different stakeholders in the cardamom sector, views expressed during the stakeholders meeting on 08/11/2018, the visits made to the e-auction centres on 05/12/2018 and 06/12/2018 and the inferences drawn, the following decisions are taken:

(1). ‘Two auction slot system’ (two auctioneering companies conducting cardamom auction in a day) is restored in the interest of various stakeholders given the facts that it gives more choice for the growers, furthers competition among auctioneers in the benefit of growers, enhances the chance of prompt payments, ensures timely payments to the plantation workers, reduces the re-pooling to a certain level and allows the auctioneers to utilise their resources judiciously. Sunday would continue to be a holiday for the e-auction at both auction centres.

(2). The forenoon e-auction shall be from 10am till 1:30pm and the afternoon e-auction shall be from 2:30pm till 6pm. There can be a grace period of 15 minutes for both forenoon and afternoon auction sessions to commence the auction. In case of late commencement after the grace period, the auctioneering company shall be liable for a penalty for every 15 minutes of delay for the commencement of auction. However, exemption shall be given on genuine reasons like natural calamities, hartal, etc. E-terminals shall be tuned in such a way that they conclude the forenoon auction at 1:30pm sharp and the afternoon auction at 6pm sharp with the last auction underway shall be completed.

(3). The lots shall be categorised into planter lots (P) and trader lots (T). It is the duty and responsibility of the auctioneer company to categorise the lots into ‘P’ and ‘T’ correctly. The P lots and T lots can be serially numbered by the auctioneer company with either P lots first and thereafter T lots or vice versa. However, a

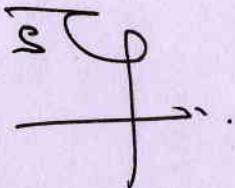
computer generated random table to be prepared only 10 minutes prior to the auction at the auction centre in the presence of at least 3 growers and 2 traders who would get changed in the subsequent auctions. The lots to be auctioned as per the random table sequence. For example, the Lot number 20 P can be followed by the Lot number 236 T. The 'P' and the 'T' shall be displayed in the e-screen of each e-terminal prominently. At the same time, the total number of lots auctioned so far should also be displayed.

It can be like this at a particular point of time:

No. of Lots auctioned so far	: 324
Lot No. being auctioned	: 152 P
(‘P’ denotes the planter’s lot)	

(4). Prompt payments to the growers and the eventual payments to the plantation workers are of paramount importance. The cardamom growers, the plantation workers and the consumers are the kingpins while the auctioneers, the traders and the exporters are the significant players in the entire cardamom sector. Hence, the auctioneering company shall ensure full payments to the cardamom growers within 10 days (only Sundays excluded). Spices Board shall, before 26th January 2019, workout a penal interest payment mechanism on the auctioneer company for each day of delay to the respective cardamom grower. The auctioneer companies are advised to make online payments beyond ₹ 20,000/- directly into the growers’ bank accounts.

(5). As the re-pooling being the biggest menace and there is no mechanism to check or prohibit, the GST refund provision shall be studied in detail and a recommendation to the GST Council through the Ministry of Commerce & Industry, Govt. of India shall be forwarded within a month in the interest of fair and remunerative price for cardamom growers.

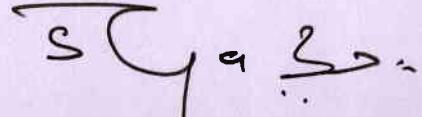


(6). Each lot shall be checked before the e-auction for finding out 'artificial colouring' of cardamom. Spices Board shall deploy an official/staff well versed with the ability to find out the artificial colouring of each lot before the auction and he/she can reject the lot so that it does not enter the auction process. An appeal mechanism shall be worked out which can include lab testing within a time frame.

(7). Spices Board to issue ID Cards to the Traders for a better regulation and discipline in the cardamom auction process.

(8). The decision of 'two auction slot system' (e-auctions by two auctioneering companies in a day) shall come into force from 17/12/2018. The Director (Marketing and Development) shall issue the schedule of the e-auction accordingly. The categorisation and labelling of the lots into 'P' and 'T', posting a staff at each e-auction centre who has the expertise in finding out the artificially coloured lots and penal provisions on delayed commencement of auction shall be introduced on or before 01/01/2019.

Dated: 13/12/2018



(M.K. SHANMUGA SUNDARAM)
Secretary, Spices Board