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Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Ref. Case No. 01 of 2014

In Re: Reference from Hon'ble High Court of Delhi in respect of alleged anti-competitive conduct of M/s Emaar MGF Land Ltd.

Against

M/s Emaar MGF Land Ltd.

Opposite Party

CORAM

**Mr. M. L. Tayal
Member**

**Mr. S. L. Bunker
Member**

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

**Mr. U. C. Nahta
Member**

Order under section 26(2) of the Competition Act, 2002

1. The present reference was registered pursuant to the directions issued by the Hon'ble High Court of Delhi in CS (OS) No. 2635 of 2010. For ready reference, the same are quoted below:



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Having gone through the terms and conditions contained in the application form and letter of allotment issued by the defendant, in my view, this is a fit case which calls for investigation by the Competition Commission to examine whether the said document and the conduct of the defendant fall foul of the Competition Act, 2002. The Registry is directed to send copies of the entire correspondence exchanged between the parties which is contained in the documents filed by the parties to the Director General of the Competition Commission, who shall take appropriate action in terms of the Act and in accordance with law.

2. Accordingly, the registry of the Hon'ble High Court of Delhi forwarded the matter to the Director General (DG), who, in turn, placed the same before the Commission for consideration and appropriate directions.
3. Before proceeding any further in the matter, it may be observed that the direction issued by the Ld. Single Judge referring the matter to the DG, as aforesaid, was stayed by the Division Bench of the Hon'ble High Court of Delhi in the appeal filed thereagainst being RFA (OS) No. 124 of 2013. As such, no further action was taken by the Commission in the matter.
4. Subsequently, it appears that the Division Bench of the Hon'ble High Court of Delhi while disposing of the appeal set aside the directions issued by the Ld. Single Judge referring the matter to the DG. The relevant para therefrom may be noticed:

In an inter party suit it would not be permissible for the Court to pass orders akin to orders passed in public interest under its writ jurisdiction.



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Under the circumstances we dispose of the appeal affirming the decree passed by the Ld. Single Judge in sum of 15,48,910/- (Rupees Fifteen Lacs Forty Eight Thousand Nine Hundred and Ten only) against the appellant. We set aside the last part of the order wherein directions have been issued to the Director General of the Competition Commission to take appropriate action as per law with respect of the terms and conditions contained in the application form and the letter of allotment.

5. In view of the aforesaid, no further action is required to be taken in the present matter. However, the Commission has even otherwise examined the entire material available on record and for the reasons noted below, is of considered opinion that no case whatsoever of the contravention of the provisions of the Competition Act, 2002 („the Act“) has been made out against the opposite party.
6. Facts, as set out in the order of the Ld. Single Judge of the Hon’ble High Court of Delhi may be briefly noted.
7. It appears that M/s Grammy Communications Pvt. Ltd. („Grammy“) applied for allotment of commercial space in a construction project of Emaar MGF Land Ltd. by the name „The Palm Square“ at sector 66, Gurgaon, Haryana and some deposits were made by it with Emaar MGF. However, as the project did not commence, Grammy *vide* letter dated 03.09.2008 sought refund from Emaar MGF. Emaar MGF *vide* letter dated 15.09.2008 disputed the claim of Grammy regarding status of the project but gave an option to Grammy to seek refund. It has been alleged by Grammy that despite repeated requests the amount was not refunded and hence it issued legal notice to Emaar MGF and thereafter a civil suit was filed before the Hon’ble High Court of Delhi.



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8. The Hon'ble High Court of Delhi in the said civil suit, after going through the terms and conditions contained in the application form and letter of appointment issued by Emaar MGF, opined *vide* its order dated 13.08.2013 passed therein, that it was a fit case which called for investigation by the Commission to examine whether the said documents and the conduct of Emaar MGF fall foul of the provisions of the Act.
9. It is evident that the project *i.e.* „The Palm Square“ in the present case is located in Sector-66, Gurgaon Haryana. Previously also, an information was filed against the same builder *i.e.* Emaar MGF in respect of the same project *i.e.* „The Palm Square“ being C. No. 102 of 2013 wherein the opposite party (Emaar MGF) was not found to be in a dominant position in the relevant market of “services for development and sale of commercial units in the region of Gurgaon”.
10. In view of the above, no further inquiry is required to be undertaken in the present case and the Commission is of considered opinion that, no case of contravention of the provisions of section 4 of the Act is made out against the opposite party (Emaar MGF) and the reference is ordered to be closed forthwith in terms of the provisions contained in section 26(2) of the Act.
11. It is ordered accordingly.
12. The Secretary is directed to inform the parties accordingly.

Sd/-
(M. L. Tayal)
Member

Sd/-
(S. L. Bunker)
Member



**Sd/-
(Sudhir Mital)
Member**

**Sd/-
(Augustine Peter)
Member**

**Sd/-
(U. C. Nahta)
Member**

New Delhi
Date: 11/09/2014