



सत्यमेव जयते



**COMPETITION COMMISSION OF INDIA**  
**Reference Case No. 06 of 2018**

**In Re:**

**Chief Materials Manager/Sales,  
Eastern Railway, Fairlie Place, 17, N.S. Road,  
Kolkata-700001.**

**Informant**

**And**

**M/s Laxven Systems  
188/A, Lane-I, Phase-II, Sector-III, IDA,  
Cherlapally, Hyderabad, 500-051.**

**Opposite Party No. 1**

**M/s Medha Servo Drives Pvt. Ltd.  
P-4/5B I.D.A Nacharam,  
Hyderabad, 500-076.**

**Opposite Party No. 2**

**CORAM**

**Mr. Ashok Kumar Gupta  
Chairperson**

**Mr. Augustine Peter  
Member**

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

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

1. The instant reference has been filed by the Chief Materials Manager/Sales, Eastern Railway (“**Informant**”) under Section 19(1)(b) of the Competition Act, 2002 (“**Act**”) against M/s Laxven Systems (“**OP-1**”) and M/s Medha Servo Drives Pvt. Ltd., (“**OP-2**”) alleging contravention of provisions of Section 3 of the Act.



सत्यमेव जयते



2. The Informant in the present case floated a tender *vide* Tender No.08/15/6073A (“**Impugned Tender**”) on 13.07.2017, for procurement of Microprocessor Control and Fault Diagnostics System (“**System/Item**”) for Electric Locos as per Research Designs and Standard Organisation (“**RDSO**”) Spec No. ELRS/SPEC/MPC/FDS/0001/Rev.’3’ April 2013.
3. As per the information, the procurement of the System was restricted only to vendors approved by Chittranjan Locomotive Works (“**CLW**”) which were as follows:
  - 3.1. M/s Medha Servo Drives, Hyderabad
  - 3.2. M/s Laxven System, Hyderabad
  - 3.3. M/s I C Electrical Co. Pvt. Ltd., Haridwar
  - 3.4. M/s Stone India Ltd., Kolkata
4. The abovementioned list of approved vendors underwent a change by an amendment *vide* no. 01/21 issued by CLW on 01.08.2017. The said amendment delisted the following vendors:
  - 4.1. M/s I. C. Electrical Co. Pvt. Ltd., Haridwar
  - 4.2. M/s Stone India Ltd., KolkataTherefore, on date of opening of the Impugned Tender *i.e.* 24.08.2017, only the following two firms remained in approved list of vendors:
  - 4.3. M/s Medha Servo Drives, Hyderabad
  - 4.4. M/s Laxven System, Hyderabad
5. The Informant has submitted that only two firms had submitted bids for the Impugned Tender, namely:
  - 5.1. M/s Medha Servo Drives, Hyderabad (Vendor approved for procurement of System/ Item by CLW)
  - 5.2. M/s I. C. Electrical Co. Pvt. Ltd., Haridwar (Vendor delisted on 01.08.2017 for procurement of System/ Item by CLW)



सत्यमेव जयते



The Informant has further submitted that there were only two CLW approved vendors at the time of opening of the Impugned Tender, *i.e.* on 24.08.2017. Due to the alleged non-participation of OP-1 in the Impugned Tender, OP-2, being the only remaining approved vendor, enjoyed a monopoly status, and quoted high rate. Furthermore, OP-1, also, did not participate in other contemporaneous tenders floated for procurement of similar Item by other Railway Zones *viz*; Central Railway, Western Railway and South Eastern Railway.

6. The Informant has alleged that even after two rounds of negotiation in the Impugned Tender, OP-2 did not bring down the rate to acceptable level due to being aware of the fact that it was the only approved vendor. As a result, the Informant was left with no option but to accept the high rate quoted by OP-2 in order to avoid shortage of the System/ Item.
7. The Informant has alleged that non-participation of OP-1 in the Impugned Tender was as a result of bid suppression by OP-1. The Informant has further alleged that non-participation of OP-1 in the Impugned Tender suggests a cartel between the OPs in contravention of Section 3(3)(d) read with Section 3(1) of the Act.
8. Based on the above, the Informant has sought relief under Section 27 of the Act.
9. The matter was considered by the Commission in the ordinary meeting held on 07.08.2018. After considering the material available on record, the Commission observed that the Informant had not placed enough evidence to indicate any agreement or understanding or action in concert between the OPs. Therefore, additional information was sought from the Informant and same was received by the Commission on 30.08.2018. The Commission, on 11.10.2018, had a preliminary conference with the Informant on the issue to take a *prima facie* view.



सत्यमेव जयते



10. Upon hearing the Informant on the aforesaid date, the Commission sought additional documents/ evidence from the Informant to substantiate its allegation of cartelisation/ bid suppression against the Opposite Parties. However, the Informant *vide* letter dated 08.11.2018, expressed its inability to access the records to substantiate the nexus, resulting in cartelization, between the OPs.
11. The Commission perused the Information and the subsequent documents filed and also considered the material available in the public domain.
12. The Commission observes that in the instant case Eastern Railways had floated a tender for procurement of the system for Electric Locos as per RDSO's Specn. No. ELRS/SPEC/MPC/FDS/0001/Rev.'3' April 2013. The System/ Item is used to perform logical control of the Locomotive by continuously monitoring various digital and analog inputs and drive the electro-mechanical contactors, valves, *etc.* The system continuously checks for abnormality in the operations of the locomotive and announces the fault condition on the Display Unit mounted in each Cab.
13. The Commission notes that the procurement of machinery/ instruments/ items by the railways is based upon the technical specifications issued by RDSO. These specifications are revised *via* amendments by RDSO from time to time as per the technological advancements and need of the hour. (RDSO Technical Report, Issue date – September, 2016). From the perusal of the report it has become clear that the system associated with each revision is technically very different from its predecessor/successor, thereby, making each version of the system unique.
14. The Informant has mentioned details of three (03) other tenders floated by various Railway zones. The relevant details of the Impugned Tender along with the three (03) tenders, as mentioned in the Information, are



summarized below:

**Table – 2: Details of bidders and bids**

<b>1.Tender No.08156073A Opened on 24.08.2017 for Microprocessor Based Control and Fault Diagnostics System(Impugned Tender); RDSO specification ELRS/SPEC/MPC/FDS/0001/Rev.'3' April 2013</b>					
<b>S.NO.</b>	<b>Firm Name</b>	<b>Basic Rate/Unit (Rs.)</b>	<b>S.T Type-S.T Rate/GST Rate (%)</b>	<b>Other Charges (Rs.)/Unit</b>	<b>Total All Inclusive Rate/Unit (Rs.)</b>
1.	I.C. Electrical Company Pvt Ltd- New Delhi (L-1)	1575000.00	GST Extra-5	Nil	1653750.00
2.	Medha Servo Drives Private Limited-Hyderabad(L-2)	1465000.00	GST Extra-18	Commissioning charges- 60000	1799500.00
<b>2. Tender No. 56165483A Opened on 10.03.2017 for Microprocessor Based Control and Fault Diagnostic System by Central Railway; RDSO specification ELRS/SPEC/MPC/FDS/0001/Rev.'2' August 2005 [VER. 2]</b>					
1.	Medha Servo Drives Private Limited-Hyderabad/(L-1)	560000.00	CST Extra-5	Commissioning Charges-25000	686500.00
2.	I.C.Electrical Company Pvt Ltd-New Delhi/ (L-2)	680000.00	CST Extra-5	Nil	714000.00
3.	Stone India Limited-Kolkata/(L-3)	690000.00	CST Extra-5	Nil	767970.00
<b>3.Tender No. 22175051 Opened on 04.09.2017 for Microprocessor Based Control and Fault Diagnostic System with Remote Monitoring and Analysis Feature MPCs by Western Railway; RDSO specification ELRS/SPEC/MPC/FDS/0001/Rev.'3' April 2013</b>					



सत्यमेव जयते



1.	I.C. Electrical Company Pvt Ltd-New Delhi/ (L-1)	1450000.00	GST Extra-5	Nil	1522720.50
2.	Medha Servo Drives Private Limited-Hyderabad/ (L-2)	1465000.00	GST Extra-18	Commissioning Charges-4.50% of Basic Rate	1806491.50
<b>4.Tender No. 23175016 Opened on 18.08.2017 for Microprocessor Based Control and Fault Diagnostic System with Distant Monitoring Features Version-3 by South Eastern Railway; RDSO specification ELRS/SPEC/MPC/FDS/0001/Rev.'3' April 2013</b>					
1.	Medha Servo Drives Private Limited-Hyderabad/ (L-1)	1465000.00	GST Extra-18	Commissioning Charges-4.50% of Basic Rate	1806491.50
2.	I.C. Electrical Company Pvt Ltd-New Delhi/ (L-2)	1600000.00	GST Extra-5	Nil	1680000.00

15. The Commission observes from examination of the tenders that OP-1 has abstained from quoting in all these tenders. Therefore, the pertinent question is whether the non- participation of OP-1 is due to the cartelization amongst the OPs or for some other reason.

16. Based on the additional information provided by the Informant, it is observed that as per the minutes of meeting of the Tender Committee (“TC”) pertaining to Impugned Tender, one of the members of the TC has put forward that OP-1 *vide* Letter No. LAX/ER/KKK-268/17-18 dated 23.01.2018 (P/131), has clarified that they have not developed Prototype



सत्यमेव जयते



for Version-3 and are therefore, not approved for Version-3 of the System/ Item as approved by RDSO, thus, not participating in tender. It has been further submitted that, CLW *vide* letter no. ELDD/3501/Part dated 01.02.2018, has also clarified that OP-1 has not completed Development and Prototype Clearance of MPCS Version-3. In view of the same the Commission notes that the non-participation of OP-1 in the tendering process appears to be due to its inability to produce the said item. Therefore, Commission observes that the allegation of bid suppression by OP-1 in collusion with OP-2 is unsubstantiated.

17. The Commission further noted the findings of the Technical member (“**TM**”) of the TC that the Impugned Tender was opened for procurement of Microprocessor Control and Fault Diagnostics System, Revision-3, which is an improvement over Revision-2. Revision-3 is mainly the combination of VCD and MPCS along with major added feature of remote monitoring. According to TM these added features have led to major changes in software as well as hardware thereby increasing the cost and thus rate quoted in the Impugned Tender cannot be compared for the purpose of rate analysis with rates quoted in earlier tenders for the procurement of Rev-2. It was further clarified by the TM that CLW, Western and Northern Railways had procured Rev-3 in the past as well from OP-2 at the basic rate of Rs. 13.4 lacs. After comparing the Last Purchase Rates (“**LPR**”) for Revision – 3 with the negotiated basic rate of Rs. 13.4 lacs quoted by OP-2 in the Impugned Tender, the rate quoted by OP-2 was found reasonable by TM.
18. The Commission has also perused the technical differences in the System under Revision – 2 and Revision – 3. The same are delineated in the table – 3 below:



**Table – 3**

SL No.	Items	Rev-2	Rev.-3
1	Digital Input Cards	8 Nos.(128)	9 Nos.(144)
2	Output Cards	4 Nos.	5 Nos.
3	P. S. Card	2 Nos.	2 Nos.
4	C. Card	2 Nos.	2 Nos.
5	Analogue Card	1 No.	
6	I.F. Card	1 No.	
7	Antenna	Nil	1 No.
8	LRMS	Nil	1 No.
9	Power Supply Card	Nil	1 No.
10	LCD TFT Display	40*4 character display	10.4 Inch display
11	Traction Motor Current measurement system (CT/ Voltage Transducer)	NA	Yes
12	Measurement of BP & BC system- Transducer	NA	Yes
13	Measurement of Locomotive speed	NA	Yes
14	Energy meter	NA	Yes
15	Short term & long term event recording	NA	Yes
16	Notch indication using absolute encoder	NA	Yes
17	Communication based signal conditioning unit	NA	Yes
18	Push button to RESET the MPCS	NA	Yes

19. The Commission notes that Revision – 3 of the system has additional features of real time remote monitoring, BP and BC pressure measurement, one additional digital input card, one additional output card, bigger size TFT display, energy meter, short term & long term event recording, communication based signal conditioning unit *etc.* Therefore, the technical difference between Revision – 2 and Revision – 3 appears to have led to increased price quoted by OP-2 in the Impugned Tender.





सत्यमेव जयते



20. In view of the foregoing, the Commission finds that having regard to the facts and evidence available on record, no case of contravention of the provisions of Sections 3 of the Act is made out against the Opposite Parties. The Information is directed to be closed forthwith in terms of the provisions contained in Section 26(2) of the Act.

21. The Secretary is directed to communicate to the Informant, accordingly.

**Sd/-**  
**(Ashok Kumar Gupta)**  
**Chairperson**

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

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

**New Delhi**  
**Date: 02/01/2019**