



**COMPETITION COMMISSION OF INDIA**

**Case No. 11 of 2022**

**In Re:**

**Mr. Virendra Kumar Singh**  
**General Secretary,**  
**Central Electronics Limited Employees Union (Regd.),**  
**4, Industrial Area, Sahibabad - 201010,**  
**Uttar Pradesh**

**Informant**

**And**

**M/s Nandal Finance & Leasing Private Limited**  
**M-11, South Extension Part –II,**  
**New Delhi - 110049**

**Opposite Party No. 1**

**M/s JPM Industries Ltd.**  
**G1-48, G T Karnal Road Industrial Area,**  
**Delhi - 110033**

**Opposite Party No. 2**

**CORAM**

**Mr. Ashok Kumar Gupta**  
**Chairperson**

**Ms. Sangeeta Verma**  
**Member**

**Mr. Bhagwant Singh Bishnoi**  
**Member**

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

1. The present information has been filed by Mr. Virendra Kumar Singh, General Secretary, Central Electronics Limited Employees Union (Regd.) ('Informant') under Section 19(1)(a) of the Competition Act, 2002 (the 'Act') against M/s Nandal Finance & Leasing Private Limited ('OP-1'/ 'Nandal') and M/s JPM Industries Ltd. ('OP-2'/ 'JPM') for alleged contravention of the provisions of



Section 3 of the Act in the disinvestment process of Central Electronics Limited (CEL).

2. CEL, established in 1974, is stated to be a Government of India (GoI) Enterprise under the Department of Scientific and Industrial Research (DSIR), Ministry of Science & Technology. Its objective is to commercially exploit indigenous technologies developed by National Laboratories and Research & Development (R&D) institutions in the country.
3. The Informant states that CEL is known for the development of products in the domain of strategic electronics through its own R&D efforts as well as in collaboration with the Council of Scientific and Industrial Research (CSIR), Defence Research and Development Organisation (DRDO) laboratories, and other institutions. CEL has developed a number of strategic electronics products for the first time in the country, including the first solar cell and solar modules in 1977 and 1978, respectively, the first solar plant in 1992, Phase Control Module (PCM), Electronics Radar and Development Establishment (LRDE) for use in Rajendra Radar, Cadmium Zinc Telluride (CZT) for defence application, and Axle Counter for the use of railway signaling system. In recognition of its efforts, CEL was given a number of prestigious awards, including the National Award for Research and Development by DSIR.
4. The Informant avers that CEL is being disinvested to a private company by the Department of Investment and Public Asset Management (DIPAM), Ministry of Finance and Ministry of Science and Technology at a very low price and without adhering to any transparency in the disinvestment process. Further, there is no clarity about the disinvestment process to employees working in CEL as well as to the public at large.
5. It is also averred that the estimated value of assets of CEL is approximately Rs. 957 crores. However, the Asset Valuers (AV) appointed by GoI for assessing the



Reserve Value of CEL have underestimated the Reserve Price to Rs. 194 crores only.

6. The Informant has stated that, under the disinvestment process of CEL, bids were received from only two bidders, namely, Nandal and JPM, who quoted Rs. 210 crores and Rs. 190 crores, respectively.
7. Further, the Informant has averred that there is a relation between the directors of the group companies of Nandal (company of Sharda Group) and JPM (Company of JPM Group). To elaborate on this relation, the Informant has provided the names of directors of the companies and their group companies, which is reproduced as below:

S. No.	Company Name	Director 1	Director 2	Director 3	Director 4
1.	Nandal Finance	Prashant Gupta	Yatendra Gupta	Pradeep Gupta	Surbhi Goyal
2.	Sharda Tech	Prashant Gupta	Yatendra Gupta	Rishabh Gupta	<b>Anirudh Minda</b>
3.	JPM Power	<b>Anirudh Minda</b>	Vandana Minda	Bharat Bhushan	
4.	JPM Industries	Bharat Bhushan	Suresh Khola	Anurag Agarwal	Kavita Sharma

8. Apart from the above, the Informant has submitted the following in support of his allegations:
- (i) As per the Expression of Interest (EOI) Clause No. 3.4.2(h), issued by DIPAM and Transaction Advisor (TA), in case of a bidder with respect to which winding up, liquidation or any other similar proceeding is pending, it may be disqualified from bidding. The Informant has stated that a liquidation case is ongoing against Nandal before the Hon'ble National Company Law Appellate Tribunal (NCLAT), and thus, it should have been disqualified from bidding.



सत्यमेव जयते



- (ii) Paid up capital of the winning bidder i.e., Nandal is only Rs. 12.25 crores, which makes the disinvestment process dubious.
  - (iii) The Informant has also placed reliance on various news articles to indicate that the disinvestment process was unfair and that CEL is being disinvested at a very low price despite it being a profit-making company and having valuable assets.
9. Based on the above, the Informant has alleged bid rigging in the disinvestment process of CEL. Accordingly, the Informant has prayed to the Commission to order an investigation into the matter and pass such other orders or issue such directions as the Commission may deem fit. Further, the Informant has requested the Commission to intervene and restrain the process of disinvestment of CEL during the pendency of an investigation into bid rigging. The Informant has also prayed for interim relief under Section 33 of the Act.
10. The Commission considered the matter in its ordinary meeting dated 09.03.2022 and decided to seek the comments of DIPAM on the information filed regarding the strategic disinvestment of CEL.
11. *Vide* its reply dated 11.04.2022, DIPAM has, *inter alia*, submitted that:
  - i) CEL's disinvestment was undertaken on an express recommendation of NITI Aayog, which in its report dated 02.08.2016, recommended the strategic disinvestment of CEL.
  - ii) The disinvestment process was carried out in a transparent manner through multi-layered decision making (ministerial level at the apex) and in accordance with the process and guidelines laid down by DIPAM.
  - iii) The Informant's allegation of disinvestment being at a very low price is baseless and incorrect, as professionals (TA & AV) used approved



methodologies as per established process and international best practices to arrive at Rs. 194 crores as the Reserve Price.

- iv) As regards the allegations of two bids received being in close range of the Reserve Price, it is submitted that both bidders were provided with CEL's financial information, which may explain the proximity of the bids. Moreover, the Reserve Price is fixed by GoI after the financial bids are received in order to eliminate the possibility of any of the bidders knowing about such Reserve Price before submitting the bid. It is also stated that even the Advisors are not privy to the process of finalisation of Reserve Price except for making presentation before the Inter-Ministerial Group (IMG).
- v) The allegation of the Opposite Parties being inter-related in terms of shareholding pattern/ promoter group have been examined and were found to be devoid of any merit. Similarity, one director being common in both Opposite Parties does not establish a statutory recognised relationship between them.
- vi) It has also been submitted that an appeal by the Registrar of Companies in NCLAT is pending against OP-1, consequent upon the case for winding up of the company dismissed by the National Company Law Tribunal (NCLT).
- vii) Further, it is submitted that DIPAM is aware of the sensitive nature of the transaction and the alleged issue of the inter-relations between the Opposite Parties and pending examination of the same, Letter of Intent (LoI) has been put on hold while an internal examination of the allegations is undertaken by DIPAM.

12. The Commission considered the Information and the response of DIPAM in its ordinary meeting held on 26.04.2022 and decided to pass an appropriate order in due course.



13. The Commission notes that the Informant has alleged bid rigging by the Opposite Parties in the disinvestment process of CEL on the basis of the following:
- i) There is an interconnection between the bidders, as Mr. Anirudh Minda is a common director in Sharda Tech Pvt. Ltd. (group company of OP-1) and JPM Power Ltd. (group company of OP-2).
  - ii) Both Opposite Parties have quoted a bid price approximately near the Reserve Price of Rs. 194 crores.
14. The Commission further notes that, in order to substantiate its allegations, the Informant has annexed a press release dated 29.11.2021 posted by the Ministry of Finance (MoF) regarding approval of the disinvestment of CEL by GoI. As per the press release, the Cabinet Committee on Economic Affairs (CCEA) empowered Alternative Mechanism (AM) comprising the Hon'ble Union Ministers of different ministries, approved the highest price bid of Nandal for acquisition of 100% equity shareholding of GoI in CEL. The press release also mentions that the process of disinvestment of CEL commenced on 27.10.2016 with the 'in-principle' approval of CCEA. Accordingly, a Request for Proposal (RFP) document was shared with the Qualified Institutional Buyers (QIBs) on 02.05.2019, inviting financial bids by 20.06.2019. However, as no financial bids were received, the process was re-launched on 03.02.2020 and the last date for the submission of EoI was extended till 15.07.2020. After completion of the due process, TA issued the approved RFP and sales and purchase agreement (SPA) along with the security clearance format to the short-listed bidders on 17.2.2021, with the last date of submission being 10.03.2021, which was further extended to 12.10.2021. By the last date, two sealed bids were received along with non-financial bid documents and bid security.
15. As per the press release and after the independent fixation of Reserve Price, the sealed financial bids were opened with the following quotation:



सत्यमेव जयते



- i) Rs 210,00,60,000/- (Rupees two hundred ten crore sixty thousand only) by Nandal.
  - ii) Rs 190,00,00,000/- (Rupees one hundred ninety crore only) by JPM.
16. As Nandal had bid higher, it became the successful bidder. However, from the submission of DIPAM, the Commission notes that GoI has put the disinvestment of CEL on hold, pending an examination by it.
17. The Commission, based on the reply submitted by DIPAM, is satisfied that allegations of bid rigging are not substantiated. *Prima facie*, there is nothing to indicate that bidders were aware of the Reserve Price prior to bidding and that they quoted the bid price in concert.
18. As regards the allegation of interconnection between the bidders on the basis that one of the directors is common in the group companies of both the Opposite Parties, the Commission, in the facts and circumstances of the instant case, observes that merely having common directors/partners may not, *ipso facto*, give rise to anti-competitive concerns, in the absence of other material factors to indicate that such common relationship facilitated a few entities to come together and manipulate the bid process. The Commission recently, *vide* its order dated 04.04.2022, in Case No. 25 of 2021 held that “*It may not be entirely uncommon, where a common Promoter/Director acts as a link between two entities, to facilitate anti-competitive behaviour. However, there is no presumption that it has to be that way at all times; instead it will depend upon the attendant factual matrix. Thus, the Commission is of the view that merely having common business linkages between the bidders as projected by the Informant, in itself, cannot be the sole basis to suggest meeting of minds or assentio mentium between the bidders in the bidding process.*”
19. With regard to other allegations *qua* the disinvestment process, the Commission observes that the disinvestment of CEL has been impugned by the Informant, which is a policy decision of GoI, and the Commission is not the appropriate



forum to determine the merits of such disinvestment in relation to issues such as the adequacy of Reserve Price. With regard to the allegation of Nandal not being eligible to bid on account of proceedings before Hon'ble NCLAT involving the said company, the Commission observes that the issue of eligibility falls within the domain of DIPAM.

20. In view of the foregoing, the Commission is of the opinion that there exists no *prima facie* case of contravention of any of the provisions of Section 3 of the Act against the Opposite Parties and therefore, the matter be closed forthwith under the provisions of Section 26(2) of the Act. Consequently, no case for grant of relief(s) as sought under Section 33 of the Act arises, and the same is also rejected.
21. The Secretary is directed to communicate the order to the Informant, accordingly.

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

**Sd/-**  
**(Sangeeta Verma)**  
**Member**

**Sd/-**  
**(Bhagwant Singh Bishnoi)**  
**Member**

**New Delhi**  
**Date: 18.05.2022**