



COMPETITION COMMISSION OF INDIA

Case No. 58 of 2014

In Re:

‘XYZ’

And

M/s Super Smelters Limited
39, Shakespeare Sarani,
Premlata, 3rd Floor, Kolkata - 700017

Opposite Party

CORAM

Mr. Ashok Chawla
Chairperson

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 information in the present case has been filed under section 19(1) (a) of the Competition Act, 2002 (the “Act”) against M/s Super Smelters Limited (the ‘**Opposite Party**’) for its alleged infraction of the provisions of sections 3 and 4 of the Act.
2. It has been alleged in the information that the Opposite Party (engaged in the business of manufacturing and processing of steel and allied activities) along with its group companies viz. M/s Sai Sponge (India) Limited and M/s Sai Iron (India) Limited and other steel manufacturing companies have entered into an arrangement with a view to directly or indirectly determine purchase price and sale price of different steel products produced by them. It is also alleged that the Opposite Party along with its group companies are imposing unfair or discriminatory price and also selling their manufactured goods below the cost to evade excise duty and sales tax. Citing the data relating to the Opposite Party’s sales, purchase and manufacturing details of one of its units at Durgapur, the Informant alleged that the Opposite Party operated in a malafide manner and defrauded authorities by fabricating books of accounts, evading taxes, *etc.*
3. It has been averred that to evade land ceiling laws and to eliminate the competitors of small and medium scale sponge iron industries, the Opposite Party along with other companies in the group have entered into some arrangement to acquire land in Jamuria Industrial Estate, Burdwan District, West Bengal which was specifically reserved for small and medium sponge iron industries. It is alleged that such arrangement has caused appreciable adverse effect on competition within India. The Informant also stated several acts of the Opposite Party that were allegedly done with a view to evade laws relating to land ceilings, benami transactions and money laundering.



4. As per the Informant, the Opposite Party, in connivance with other steel manufacturers in West Bengal, has denied minimum wages to its employees and imposed unfair and discriminatory conditions such as denial of employee benefits relating to Provident Fund, ESI, Gratuity, *etc.* Further, it is alleged that the Opposite Party has been paying remuneration to its employees in cash without recording the same in the books of account.
5. Aggrieved by the anti-competitive conduct of the Opposite Party, the Informant has prayed that the Commission should investigate the abuse of dominant position of the Opposite Party and formation of cartel by the Opposite Party and its group of companies along with other steel manufacturers. The Informant also requested for confidentiality under Regulation 35(1) of the Competition Commission of India (General) Regulations, 2009 which has been duly accorded by the Commission.
6. The Commission has perused the information, written submission of the Informant and the materials available on record. It is noted that the Informant expressed its inability to appear before the Commission and requested to consider the written submissions in lieu of the same.
7. It is observed that the Informant has highlighted numerous activities of the Opposite Party and other steel manufacturing companies which are allegedly discriminatory and anti-competitive. Some of such acts of the Opposite Party include evasion of taxes, evasion of land ceilings law, fabrication of books of accounts relating to its Durgapur Unit, acquisition of land in Jamuria Industrial Estate which were reserved for small and medium sponge iron industries, involvement in money laundering activity, submission of false returns to the Government, denial of minimum wages to its employees, *etc.*
8. Further, the Informant has alleged that the Opposite Party alongwith other steel manufacturing companies is selling different steel products manufactured by it far below the cost to evade excise duty and sales tax. It is alleged that the



Opposite Party had a 'tie-in arrangements' with other steel manufacturers in denying minimum wages to the employees. Also, the Opposite Party is alleged to have imposed unfair and discriminatory condition on its employees in terms of denial of appointment letter and denial of benefits relating to Provident Fund, ESI, Gratuity, *etc.* The Informant further alleged that the Opposite Party refused to deal with its employees.

9. The Commission notes that the allegations against the Opposite Party on evading laws relating to taxes, excise duties, land ceilings and money laundering, whether they hold true or not, do not come under the jurisdiction of the Commission. The Informant may approach the appropriate forum in this regard.
10. As regard the other allegations such as predatory pricing, unfair and discriminatory conditions, tie-in arrangement, refusal to deal, abuse of dominance and cartel, the Commission is of the view that there is no substance in such allegations. Though the terms like tie-in, refusal to deal, *etc* have been highlighted in the information they, however, have no connection whatsoever, with such terms as understood in the context of the Act. The terms were mainly used with reference to the dispute between the Opposite Party and the Informant only. As regard predatory pricing, no document has been furnished to establish the same. The activities highlighted by the Informant in this respect do not appear to raise any competition issue at all.
11. Since the allegations in the matter do not raise any competition concern, the Commission holds that no *prima facie* case is made out against the Opposite Party either under the provisions of section 3 or section 4 of the Act for making a reference to the Director General for conducting investigation into the matter.



12. Accordingly, the Commission deems it fit to close the proceedings of the case under the provisions of section 26 (2) of the Act.
13. The Secretary is directed to communicate the decision of the Commission to the parties accordingly.

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

New Delhi

Dated:21/11/2014