



Fair competition for greater good

## COMPETITION COMMISSION OF INDIA

(Combination Registration No. C-2013/09/131)

03.10.2013

### Notice u/s 6 (2) of the Competition Act, 2002 given by:

- Ushdev Windpark Private Limited.

### Order under Section 31(1) of the Competition Act, 2002

1. On 18<sup>th</sup> September, 2013 the Competition Commission of India (hereinafter referred to as the “**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (hereinafter referred to as the “**Act**”), given by Ushdev Windpark Private Limited (hereinafter referred to as “**UWPL**” or the “**Acquirer**”). The notice was given pursuant to the execution of a Business Transfer Agreement entered into between Ushdev Power Holdings Private Limited (hereinafter referred to as “**UPHPL**”), UWPL, Gupta Corporation Private Limited (hereinafter referred to as “**GCPL**”), Gupta Coal India Private Limited (hereinafter referred to as “**GCIPL**”), Gupta Infrastructure India Private Limited (hereinafter referred to as “**GIPL**”) and Gupta Realinfra Ventures Private Limited (hereinafter referred to as “**GRVPL**”), on 19<sup>th</sup> August 2013 (hereinafter referred to as the “**BTA**”).

2. As per the information given in the notice, the proposed combination relates to the acquisition by UWPL of 14.4 MW operational wind power projects business of GCIPL, comprising of wind power generation units in the states of Maharashtra and Rajasthan (hereinafter referred to as the “**Wind Power Business**”) pursuant to the BTA.

3. It has further been stated in the notice that under an internal corporate restructuring being undertaken within the seller group companies, it is also proposed that GCIPL will be merged with GIPL in terms of a scheme of



Fair competition for greater good

## COMPETITION COMMISSION OF INDIA

amalgamation filed before the Nagpur bench of the High Court of Bombay. GIPL has undertaken to subrogate itself into the position of GCIPL, upon the aforesaid scheme of arrangement becoming effective and to transfer the Wind Power Business to UWPL on the terms and conditions contained in the BTA; and has also consented to the transfer of the Wind Power Business by GCIPL to UWPL on the terms and conditions contained in the BTA.

4. The proposed combination falls under Section 5(a) of the Act.

5. UWPL, an unlisted company, is engaged in the business of generation and selling of wind power in the state of Tamil Nadu and its wind-mills are located in Tamil Nadu. UPHPL, an unlisted company, is the holding company of UWPL and is engaged in the business (directly and indirectly through its subsidiaries) of generation and selling of wind power in the states of Maharashtra, Tamil Nadu, Karnataka, Gujarat and Rajasthan.

6. GCIPL, an unlisted company, is primarily engaged in the business of trading of indigenous and imported coal and, additionally, it is also engaged in the business of generation and selling of wind power and its windmills are located in the states of Rajasthan and Maharashtra. GCPL, an unlisted company, is the holding company of GCIPL and is engaged in the business of providing business, financial, management and administrative services to companies belonging to the seller group. GIPL is also an unlisted company into which, as stated earlier, under a scheme of amalgamation, GCIPL is proposed to be merged. GIPL is engaged in the business of construction, development and management of infrastructure and real estate. In case the scheme of amalgamation between the GCIPL and GIPL becomes effective prior to the consummation of the sale of Wind Power Business of GCIPL to the UWPL, the GIPL will acquire the business of the GCIPL, including GCIPL's Wind Power Business and later, transfer the same to UWPL under the terms of BTA. GRVPL, an unlisted company, is the promoter of GIPL. GRVPL is presently engaged in the business of construction, development and management of infrastructure and real estate.



Fair competition for greater good

## COMPETITION COMMISSION OF INDIA

7. The proposed combination concerns the wind power generation business in India which is characterized by the presence of a large numbers of players. As per the publicly available information, the total installed power generation capacity in India was 225,793.1 MW as on 30<sup>th</sup> June 2013, out of which 27,541.71 MW was generated by renewable energy resources. As per the details provided in the notice, as on 28<sup>th</sup> February 2013, the total wind based power generation capacity in India was 18,551 MW, while the total installed wind power generation capacity in the states of Maharashtra and Rajasthan stood at 2976 MW and 2355 MW respectively. Further, as stated in the notice, UPHPL along-with its subsidiaries, including UWPL, has a total installed wind power generation capacity of 5.05 MW and 14.60 MW in Maharashtra and Rajasthan respectively and 61.25 MW at all India level. After the acquisition of the 14.40 MW Wind Power Business from GCIPL, the total installed wind power generation capacity of the UPHPL along-with its subsidiaries, including UWPL, will become 6.55 MW and 27.50 MW in Maharashtra and Rajasthan respectively and 75.65 MW at all India level. Therefore, after the proposed combination, the share of the Acquirer along with its subsidiaries, in the total installed power generation capacity as well as in the total installed wind power generation capacity, in each of the states of Maharashtra and Rajasthan, as well as at the all India level, will still remain small. It has been stated in the notice that upon completion of the proposed combination, GCIPL / GIPL will cease to be in the business of generation and selling of wind power.

8. Considering the facts on record, the details provided in the notice given under sub-section (2) of Section 6 of the Act and the assessment of the proposed combination on the basis of the factors stated in sub-section (4) of Section 20 of the Act, the Commission is of the opinion that the proposed combination is not likely to have an appreciable adverse effect on competition in India and, therefore, the Commission hereby approves the proposed combination under sub-section (1) of Section 31 of the Act.



Fair competition for greater good

## COMPETITION COMMISSION OF INDIA

9. This approval is without prejudice to any other legal/statutory obligations as applicable.
10. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.
11. The Secretary is directed to communicate to the Acquirer accordingly.

(Ashok Chawla)  
Chairman

(Geeta Gouri)  
Member

(Anurag Goel)  
Member

(M. L.Tayal)  
Member

(S. N. Dhingra)  
Member

(S. L. Bunker)  
Member