COMPETITION COMMISSION OF INDIA

8th December, 2011.

Case No. 65/2011

Filed by	M/s. Bajrang Steel & Alloys Pvt.Ltd.	Informant
Against	Western Electricity Supply Company of Orissa Ltd.	Opp.Party

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

The applicant claims to be a small scale steel production company and a consumer of electricity. The applicant entered into an agreement with the Opposite Party in the year 2005 for supply of electricity. Electricity is the main raw material in the industry of applicant since the applicant is running an induction furnace for production of steel. The applicant has approached this Commission alleging that the OP is guilty of anti competitive activity as described under section 3 & 4 of the Competition Act.

The applicant alleged as under :-

- Initially the applicant was assured by the OP that rebate in rates would be applicable to it for a period of 5 years but it was given only for a period of one year.
- The electricity was available at a cheaper rate in the surrounding states as compared to the rate at which it was being supplied to the applicant.

It is submitted by the applicant that since the purpose of Competition Act is the economic development of the country, aiming at higher productivity, innovation, cheaper prices, freedom of choice etc., any practice

that leads to decrease in productivity or increase in price or increase in switching costs, should be classified as anti-competitive causing adverse effect on the competition and the CCI should intervene.

It is contended in the application that the applicant was being compelled to pay higher price for electricity as compared to per unit rate in surrounding states and the applicant does not have a choice of taking electricity from suppliers in the neighbouring state. The Competition Commission should take remedial steps and restrain OP from withdrawing rebate and discount and to hold the OP responsible for causing loss and injury to the applicant by withdrawing rebate and charging price higher than what was payable in surrounding states. CCI should direct the OP to refund the difference in charges along with interest which the applicant suffered since the applicant had no liberty to draw electricity from neighbouring state. It has also prayed for directing OP to reduce the rates of electricity and to bring it at par with neighbouring states.

It is not disputed that the applicant was getting subsidy on the electricity consumed. The bills filed by the applicant show that the applicant was a subsidized consumer. It is also not disputed that the electricity tariffs in the State of Orissa are fixed, from time to time, by Orissa State Electricity Commission in exercise of powers conferred to it under Electricity Act, 2003. It is apparent that the OP does not have liberty to fix tariff arbitrarily at its own will.

The rates of electricity differ from state to state. This difference in rates of electricity is based on various factors which this Commission need not go into. Suffice it to say that the issues raised by the applicant are not covered under the Competition Act. The Competition Commission cannot give directions to the OP to reduce or enhance its rate in view of the fact that there is another regulatory body looking after this aspect. The Competition Commission cannot also give direction to give a specific rebate

to the applicant. The applicant can draw electricity from other state electricity corporation only if it had a transmission network in the region of applicant. In case there is no transmission network of other states available, the liberty claimed by applicant is meaningless. In any case there is no bar on applicant from stopping to draw electricity from OP and explore other avenues.

I find that the application made by the applicant was not maintainable as no issue under Competition Act arises, the case is hereby closed under section 26(2) of the Act.

Secretary is directed to inform all concerned suitably.

Sd/-
Member (D)

Certified True Copy

S. P. GAHLAUT
ASSISTANT DIRECTOR
Competition Commission of India
New Delhi

11/01/2012