07.12.2018

Notice u/s 6 (2) of the Competition Act, 2002 given by Tata Sponge Iron Limited

CORAM:

Mr. Ashok Kumar Gupta
Chairperson

Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Legal Representatives of the parties: M/s AZB & Partners

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

1. On 30.10.2018, the Competition Commission of India ("**Commission**") received a notice under Section 6(2) of the Competition Act, 2002 ("**Act**") filed by Tata Sponge Iron Limited ("**TSIL**"/ "**Acquirer**"), pursuant to execution of Business Transfer Agreement dated 22.09.2018 between Tata Steel Limited ("**TSL**") and Usha Martin Limited ("**UML**") and the subsequent novation agreement dated 24.10.2018 entered into between TSIL, TSL and UML (hereinafter, TSIL, TSL and UML will be referred to as the "**Parties**").

2. The proposed combination involves acquisition by TSIL, one of the subsidiaries of TSL, of the steel division of UML as a going concern ("**Target Business**") on a slump sale basis ("**Proposed Combination**").

3. During the course of review of the Proposed Combination by the Commission, the Acquirer submitted certain information(s)/clarification(s) *vide* emails on 30.11.2018 and 04.12.2018, *inter alia,* related to overlaps and presence of Tata Sons.

4. TSIL, a public limited company, listed on the Bombay Stock Exchange ("**BSE**") and the National Stock Exchange of India Limited ("**NSE**"), is a subsidiary of TSL. It is *inter alia*, engaged in the manufacture of sponge iron by direct reduction method (**DRM**) of iron ore and power generation from waste heat.

5. TSL is a public limited company, listed on BSE and NSE. It is *inter alia*, engaged in integrated steel manufacturing operations, ranging from mining to steel-making and further downstream processing. Tata Sons is the promoter of TSL and holds around 31% of the total shares in TSL.

6. UML is a public limited company, listed on BSE and NSE. It is *inter alia*, engaged in the manufacture of special steel bars, wire rods, wires and wire ropes.

7. The Target Business is stated to be, *inter alia*, engaged in the manufacture and sale of sponge iron and limited quantity of sale of hot metal/basic grade pig iron. Further, Target Business also manufactures and sells finished long carbon steel products (**LCSPs**) and special steel products but it does not manufacture finished flat carbon steel products (**FCSPs**). The Target Business's finished products comprise straight length special steel bars (in the form of rounds and round cornered square (**RCS**)), bright bars and wire rods. It is also stated in the notice that while wire rods manufactured by the Target Business are of two kinds, carbon steel wire rods (**CSWR**) and alloy wire rods, in the past, the Target Business has sold negligible quantity of CSWR in the open market, and supplied most of the CSWR it produces for consumption by the Wires and Wire Ropes business division (**WWR Business**) of UML, primarily to manufacture, (i) wires; (ii) wire ropes and (iii) strands. Further, it stated that TSIL is not acquiring UML's WWR Business, which UML will continue to operate, further to the Proposed Combination.

8. The Commission in its decisional practice in cases relating to steel sector has noted that there are various stages in the production process of steel products starting from production/sourcing of inputs to production/sourcing of iron and semis and subsequent production of finished steel products. The inputs include iron ore, coal, coke, power etc. The production of iron includes production of iron pellets, pig iron, sponge iron and production of semis include production of solid steel products such as slabs, billets and blooms. The finished steel products are manufactured in different rolling mills and classified broadly as flat and long steel products. The flat steel products are manufactured from slabs while long steel products are manufactured from billets and blooms. Flat steel products can be further segregated on the basis of the manufacturing stage of their production process as the finished product may be sold at each of these stages or be utilized for further processing in the next stage. Similarly, it is noted that steel products can be bifurcated on the basis of their chemical structure and physical properties into various categories viz., carbon steel, special steel, stainless steel and tool steel. Further, these categories of steel may be bifurcated by considering products manufactured at different stages in the production process.

9. The Commission has previously noted that technical characteristics, intended use, price levels, etc. for each of the product segments/sub-segments for different types of steel and at different stages in production of steel differ from each other and that each of these product segments may constitute separate relevant product market. The relevant geographic market has previously been considered to be the entire territory of India. However, the exact definition of relevant product or geographic market has been left open in all the cases as the transactions were not giving rise to competition concern irrespective of the manner in which the market is defined. The same approach has been followed in the assessment of the Proposed Combination.

10. In accordance with the aforesaid segmentation, the activities of the TSIL, TSL (including Bhushan Steel Limited ("**BSL**")[1] and Bhushan Power and Steel Limited ("**BPSL**")[2]) and

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[1] On 25.04.2018, the Commission approved the proposed acquisition of BSL by TSL.

Target Business overlap in respect of manufacture and sale of certain steel products in India, *viz.*, (i) sponge iron; (ii) long carbon steel products, in particular carbon wire rods; and (iii) pig iron; (iv) alloy billets; and (v) special steel products. The special steel products can be similarly further segmented considering the characteristics and intended use of individual special steel products. The Commission has carried out its competition assessment for all the aforesaid segments/sub-segments.

11. It is observed that the Target Business has an insignificant presence in India in market for sponge iron, carbon steel wire rods, pig iron and alloy billets in terms of manufacturing/sale with incremental market shares resulting from the Proposed Combination in all the aforesaid product segments being in the range of [0-5] percent and combined market share in all the aforesaid product segments being less than 20 percent. Accordingly, the Proposed Combination is not likely to change the competition dynamics of any of the affected markets in a significant manner and therefore the horizontal overlaps resulting from the Proposed Combination are not likely to result in any appreciable adverse effect on competition in any of the aforesaid product segments. Further, the combined entity will continue to face competitive constraints from other competitors such as JSW Steel Limited, Essar Steel Limited, JSPL and SAIL.

12. In the market for special steel, the Commission noted that Target Business is engaged in the manufacture and sale of special steel products *viz.*, alloy wire rods and special steel bars (in form of RCS) including bright bars. Based on the data submitted by Parties, it is observed that the overlaps are insignificant to cause any change in competition dynamics in the overall special steel segment or in any of the overlapping sub-segments of special steel as identified above.

13. Further, considering the aforesaid analysis in terms of presence of the Parties and that of other competitors at different levels of value chain of steel products, the combined entity is not likely to have ability/incentive to foreclose any of the vertically related markets.

[2] The Commission has approved the proposed acquisition of shares in BPSL by TSL, however; the proposed acquisition itself is still subject to proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC Proceedings).

14. Considering the facts on record and the details provided in the notice given under Section 6(2) of the Act and assessment of the Proposed Combination on the basis of factors stated in Section 20(4) of the Act, the Commission is of the opinion that the Proposed Combination is not likely to have any appreciable adverse effect on competition in India in any of the relevant market(s) and therefore, the Commission hereby approves the same under Section 31(1) of the Act.

15. This order shall stand revoked if, at any time, the information provided by the Acquirer is found to be incorrect.

16. The information provided by the Acquirer is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.

17. The Secretary is directed to communicate to the Acquirer accordingly.