



COMPETITION COMMISSION OF INDIA

Reference Case No. 03 of 2018

In re:

Chief Materials Manager, North Western Railway

Informant

And

Moulded Fibreglass Products

Opposite Party No. 1

Power Mould

Opposite Party No. 2

Black Burn and Co. Pvt. Ltd.

Opposite Party No. 3

Polysat Plastics Private Ltd.

Opposite Party No. 4

M/s Anju Techno Industries

Opposite Party No. 5

Calstar Steel Limited

Opposite Party No. 6

Jai Polypan Pvt. Ltd.

Opposite Party No. 7

Polymer Products of India Ltd.

Opposite Party No. 8

M/s Micro Engineers

Opposite Party No. 9

Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.)

Opposite Party No. 10

Skylark Projects Pvt. Ltd.

Opposite Party No. 11

CORAM

**Ashok Kumar Gupta
Chairperson**

**Sangeeta Verma
Member**

**Bhagwant Singh Bishnoi
Member**

Present:

For Chief Materials Manager, North Western Railway : None

For Moulded Fibreglass Products, Black Burn and Co. Pvt. Ltd. and Mr. Alok Somani, Director of Black Burn and Co. Pvt. Ltd. : Mr. Rahul Singh, Mr. Pranjal Prateek and Mr. Tanveer Verma, Advocates



- For Power Mould, Polyset Plastics Private Ltd., M/s Anju Techno Industries, Mr. Bhupesh Bafna, Director of Polyset Plastics Private Ltd. and Partner of Power Mould and M/s Anju Techno Industries, and Ms. Shanta Sohoni, employee at Polyset Plastics Private Ltd. : Dr. Harsh Surana, Advocate
- For Calstar Steel Ltd. and Mr. Vikas Agarwal, Director of Calstar Steel Ltd. : Mr. Vikas Agarwal, Director of Calstar Steel Ltd., in-person
- For Jai Polypan Pvt. Ltd., Mr. Vishal Baid, Director of Jai Polypan Pvt. Ltd., Mr. Rajeev Dhudani, Consultant/ Adviser at Jai Polypan Pvt. Ltd. and Mr. Rajesh R., Senior Manager (Operations) at Jai Polypan Pvt. Ltd. : Mr. Rohan Arora, Ms. Shweta Shroff Chopra and Mr. Kshitij Sharma, Advocates
- For Polymer Products of India Ltd., Mr. Vishnu N.M. and Mr. Venkata Subramanyam, Managing Partners of Polymer Products of India Ltd., and Mr. Harsha Gumballi, Manager (Admin) of Polymer Products of India Ltd. : Mr. Kartikey Nayyar, Advocate along with Mr. Venkata Subramanyam, Managing Partner of Polymer Products of India Ltd., in-person
- For M/s Micro Engineers and Mr. Salimuddin, Managing Partner of M/s Micro Engineers : Mr. Sunil Kumar Agarwal, Advocate
- For Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.), Mr. Luv Kumar, Director of Quadrant EPP Surlon India Ltd. and Mr. R.K. Singh, Assistant Manager (Marketing) of Quadrant EPP Surlon India Ltd. : Mr. Samar Bansal, Advocate along with Mr. Luv Kumar, Director of Quadrant EPP Surlon India Ltd., in-person
- For Skylark Projects Pvt. Ltd. and Mr. Shirish Tapuriah, ex-Director of Skylark Projects Pvt. Ltd. : Mr. Ashwini Chawla, Advocate

ORDER UNDER SECTION 27 OF THE COMPETITION ACT, 2002

Facts:

1. The present matter was initiated by the Commission on receipt of a Reference under Section 19(1)(b) of the Competition Act, 2002 (the 'Act') from Chief Materials Manager, North Western Railways ('Informant'), against Moulded Fibreglass Products ('OP-1') and Power Mould ('OP-2').



सत्यमेव जयते



2. The Informant alleged that OP-1 and OP-2 had indulged in cartelisation in the Informant's bidding process for the procurement of High Performance Polyamide ('HPPA') Bushes and Self Lubricating Polyester Resin ('SLPR') Bushes (which are alternatives to each other) used in Bogie Mounted Brake Cylinder Coaches in contravention of the provisions of the Act. The Informant, *inter alia*, submitted that OP-1 and OP-2 had quoted identical prices to the last 2 decimal points in their bids, in response to the Informant's Re-Tender No. 30.16.2151-A opened on 02.09.2016, despite them being located at different places (Kolkata and Daman).
3. Upon consideration of the reference in its ordinary meeting held on 19.07.2018, the Commission decided to call for certain documents/ clarification from the Informant which were filed by him on 17.08.2018.
4. Thereafter, the Commission considered the matter in its ordinary meeting held on 11.09.2018 and decided to pass an appropriate order.
5. Subsequent thereto, the Commission passed an order dated 16.10.2018 under Section 26(1) of the Act forming an opinion that there exists a *prima facie* case of contravention of the provisions of Section 3(3)(d) read with Section 3(1) of the Act, and accordingly, directed the Director General ('DG') to cause an investigation into the matter and submit a report. The Commission made it clear that if during the course of investigation, the DG comes across anti-competitive conduct of any other entity/ person in addition to those mentioned in the information, the DG shall be at liberty to investigate the same as well. Further, the DG was directed to conduct a detailed investigation into the matter without restricting and confining itself to the duration mentioned in the information. The DG was also directed to investigate the role of the officials of the Opposite Parties, in terms of Section 48 of the Act, after giving them due opportunity of being heard.
6. During the pendency of investigation before the DG, applications under Section 46 of the Act read with Regulation 5 of the Competition Commission of India (Lesser Penalty) Regulations, 2009 ('LPR') were received in the Commission on behalf of (i) Black Burn and Co. Pvt. Ltd. and its 5 individuals, (ii) OP-1 and its 5 individuals, (iii) Jai Polypan Pvt. Ltd. and its individuals, and (iv) Quadrant EPP Surlon India Ltd. (now



MCAM Surlon India Ltd.) and its 2 individuals. The same, *vide* separate orders, were forwarded by the Commission to the DG.

Findings of the DG:

7. The DG, after conducting a comprehensive investigation in the matter, submitted the investigation report. The findings of the DG in its report, in brief, are as under:

(a) The following nine (09) other parties are also found to be involved in the alleged cartelisation:

- i. Black Burn and Co. Pvt. Ltd. ('OP-3')
- ii. Polyset Plastics Private Ltd. ('OP-4')
- iii. M/s Anju Techno Industries ('OP-5')
- iv. Calstar Steel Limited ('OP-6')
- v. Jai Polypan Pvt. Ltd. ('OP-7')
- vi. Polymer Products of India Ltd. ('OP-8')
- vii. M/s Micro Engineers ('OP-9')
- viii. Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.) ('OP-10')
- ix. Skylark Projects Pvt. Ltd ('OP-11')

(b) After analysing the nature of activities performed by the contravening parties *i.e.* manufacture and supply of moulded plastics, HPPA/ SLPR Bushes, protective tubes and other multiple components, all the eleven (11) parties (OP-1 and OP-2 and the above additional 09 parties) were found to be entities indulging into economic activities and hence, 'enterprise' within the definition of Section 2(h) of the Act. Further, it was found that the Indian Railways, *vide* its circular, has declared HPPA/ SLPR Bushes to be alternates to each other. As such, all the 11 parties were found to be engaged in identical/ similar trade of goods. Accordingly, the conduct of these 11 parties was can be analysed in terms of Section 3(3) of the Act.

(c) During the investigation, the DG analysed various evidences in the form of price parallelism in various tenders across different railways zones, commonality of IP addresses and common login time and date of a bunch of parties, common directorship/ partnership of some groups of parties, and e-mail exchanges and WhatsApp communications between representatives of various parties. The DG



carved out a *modus operandi* which was being followed by the parties and observed that:

- a. there was a clear understanding between the parties with respect to determination of prices in regard to the tenders floated by Indian Railways for procurement of HPPA/ SLPR Bushes. Further, there were also discussions regarding revision in prices and e-mails where members can be seen pressuring other members to quote only the decided prices and not lower;
- b. the parties had an agreement and understanding wherein the intention was to inflate or increase the prices of HPPA/ SLPR Bushes in the tendering process. The parties also discouraged each other to quote lower rates in the bids and encouraged each other to quote higher prices;
- c. the parties could be seen asking other parties to withdraw their offers which showed that the parties, in agreement with each other, were controlling and limiting the supply of HPPA/ SLPR Bushes as these were the only approved vendors of the said product;
- d. the tenders were distributed amongst the parties on the basis different railway zones and accordingly, the parties were sharing the market by way of allocation of the tenders by geographical area of the market.

In view of the above, the DG concluded that all the eleven (11) parties were indulging in contravention of the provisions of Section 3(3)(a), 3(3)(b), 3(3)(c) and 3(3)(d) of the Act.

- (d) In terms of Section 48 of the Act, the DG identified certain individuals of the parties who had played an active role in contravention of the provisions of the Act by the respective entity and/ or was in-charge of and responsible for the conduct of the business of the respective entity during the period of contravention, and accordingly, fixed liability upon 14 such individuals..

Proceedings before the Commission:

8. The Commission considered the investigation report submitted by the DG in its ordinary meeting held on 15.04.2021 and decided to implead the additional 09 parties found guilty of contravention of the provisions of the Act by the DG, as Opposite



Parties 03 to 11 in the present matter (OP-1 to OP-11 hereinafter referred to as the 'OPs'). The Commission also forwarded an electronic copy of public version of the investigation report to the Informant, giving it an opportunity to file its suggestions/objections, if any thereto. As far as the OPs and their individuals found liable by the DG in terms of Section 48 of the Act were concerned, the Commission decided to form a confidentiality ring amongst them for the purposes of sharing confidential version of the DG Report/ DG Records with them, and accordingly, directed the OPs and their individuals concerned to furnish to the Commission, the names and undertakings of persons who would form part of the confidentiality ring on their behalf.

9. Upon receipt of such names and undertakings from 09 out of 11 OPs and their 12 individuals, the Commission, *vide* order dated 08.09.2021, created a confidentiality ring amongst the 09 OPs and their 12 individuals and forwarded to them, electronic copy of the confidential version of the investigation report. To remaining 02 OPs and their 02 individuals, non-confidential *qua* OPs version of the investigation report was forwarded. The parties were given an opportunity to file their suggestions/ objections, if any, to the investigation report of the DG and they were also directed to file their certain financial statements. The OPs were directed to furnish their audited Financial Statements including Balance Sheets and Profit & Loss Accounts for the relevant Financial Years ('FYs') *i.e.* 2015-16 to 2019-20 along with details of their revenue and profit generated in these FYs from the sale of HPPA Bushes and SLPR Bushes by way of Affidavits supported by certificates of Chartered Accountants, while the persons identified by the DG in terms of Section 48 of the Act were directed to file their income details including Income Tax Returns ('ITRs') for the FYs 2017-18, 2018-19 and 2019-20.
10. Thereafter, on 27.01.2022, the Commission heard the oral submissions addressed by the respective learned counsel(s) for the parties on the DG report and on the respective applications for lesser penalty filed by certain parties under Section 46 of the Act. The Commission decided to pass an appropriate order in the matter in due course. Thereafter, the parties submitted their respective written arguments.



सत्यमेव जयते



Submissions of the parties:

11. In their suggestions/ objections to the investigation report of DG written arguments, and during the oral hearing, the parties took diverse pleas which are summarised in the succeeding paras:

12. Informant

12.1 No submissions were filed on behalf of the Informant, and neither anyone appeared on behalf of the Informant.

13. Moulded Fibreglass Products and Mr. Alok Somani

13.1 OP-1 largely agrees with the observations and conclusions drawn in the investigation report. However, it may be noted that OP-1's role in the cartel was limited only in its capacity of being a Part I supplier of SLPR Bushes. It did not participate in the cartel as Part II supplier of HPPA Bushes. Further, though the cartel was in operation since 2014 onwards, OP-1 came to know about the same only in 2016 when Mr. Alok Somani was approached by the other manufacturers to become a part of the cartel. In 2016 also, OP-1 became an unwilling member to the cartel only because it was incurring heavy losses in its SLPR Bushes business as the Indian Railways had decided to treat low performing HPPA bushes at par with expensive SLPR bushes. However even on becoming a part of the cartel, OP-1 did not play an active role in facilitating the cartel. Since beginning, it was Ms. Shanta Sohoni of OP-4 who co-ordinated the activities and was the ring leader of the cartel. Further, the tendering mechanism of Indian Railways of negotiating prices based on L1 quotes also lead to an indirect exchange of price related information.

13.2 There was no cartel between OP-1, OP-3 and OP-11. The DG's theory of there being a cartel between OP-1 and OP-3 based on identical IP addresses from which bids were quoted, is untenable. OP-1 and OP-3 may have participated in the same tenders, but while one was quoting for HPPA Bushes, the other was quoting for SLPR Bushes. Further, the Indian Railways was also well aware of OP-1 and OP-3 being sister entities. For the sake of complete disclosure, it is submitted that on certain occasions, even OP-11 also filed the bids from OP-3's office; however, this



was because OP-11 bought the major raw material ‘prepreg’ for SLPR Bushes, from OP-3 only. OP-11 could enter the business of SLPR Bushes only because of the help of OP-3 which provided to it the necessary raw material and technology to develop SLPR Bushes. However, it continued to face various technical difficulties for which it regularly consulted OP-1 and OP-3. Hence, it cannot be said that OP-11 provided cover bids for OP-1 and OP-3.

13.3 The DG has not investigated cartel conduct prior to 2016 despite there being evidence on record to show that the cartel was in operation from at least 2014.

13.4 The DG’s conclusion regarding there being geographical allocation of market amongst the OPs, is factually and legally, untenable. There is no evidence on record regarding territorial/ geographical/ zonal allocation of tenders amongst the OPs.

13.5 OP-1 is a Micro Small and Medium Enterprise (‘MSME’) and has undergone severe economic hardship on account of COVID-19 pandemic. Hence, monetary penalty ought not to be imposed on OP-1.

13.6 OP-1 has fulfilled all conditions mentioned in the LPR for grant of lesser penalty to it. It has provided full, true and vital disclosures and has extended full, continuous and expeditious co-operation. In fact, the disclosures made by OP-1 and OP-3 led to other participants also file for lesser penalty. The DG has also extensively relied upon the evidence provided by OP-1 to incriminate various OPs. Even before the filing of a lesser penalty application, Mr. Alok Somani of OP-1 had voluntarily made vital disclosures to the DG and provided direct evidence of cartel which included e-mails exchanged between the OPs in furtherance of the cartel. Hence, OP-1 ought to be granted the maximum benefit of reduction in penalty, if any, imposed upon it.

13.7 OP-1’s participation in the cartel did not lead to any appreciable adverse effect on competition (‘AAEC’) within India. In terms of the factors stated under Section 19(3) of the Act, OP-1’s conduct neither created any entry barriers for new entrants in the market, nor drove existing competitors out of the market, nor led to foreclosure of competition by hindering entry into the market. Rather, OP-1 developed a technically superior product in the form of SLPR Bushes along with



सत्यमेव जयते



competing vigorously against incumbent HPPA Bushes players who had formed a cartel which led to significant benefit to the consumer (Indian Railways). It helped OP-11 enter SLPR Bushes market leading to improvement in the production and distribution of SLPR Bushes. By developing SLPR Bushes, OP-1 solved long-standing technical problem faced by the Indian Railways thereby leading to promotion of technical and scientific development.

14. **Black Burn and Co. Pvt. Ltd. and Mr. Alok Somani**

14.1 OP-3 largely agrees with the observations and conclusions drawn in the investigation report. However, though the cartel was in operation since 2014 onwards, OP-3 came to know about the same only in 2016 when Mr. Alok Somani was approached by the other manufacturers to become a part of the cartel. Further, OP-3 started participating in the cartel only from January 2018 onwards, that too because it was incurring heavy losses in its SLPR Bushes business as the Indian Railways had decided to treat low performing HPPA bushes at par with expensive SLPR bushes. It can be seen from the rates quoted by OP-3 in 2016 and 2017 tenders that such rates were quite low and competitive. Anyhow, even on becoming a part of the cartel in January 2018, OP-3 did not play an active role in facilitating the cartel. Since beginning, it was Ms. Shanta Sohoni of OP-4 who coordinated the activities and was the ring leader of the cartel.

14.2 In many of the excel sheets containing data of allotment of tenders to various OPs which are attached to the e-mails of Ms. Shanta Sohoni of OP-4 sent 2016 onwards, OP-3 has been wrongly mentioned in place of OP-1. It was OP-1 and not OP-3 which had joined the cartel in 2016. Further, the tendering mechanism of Indian Railways of negotiating prices based on L1 quotes also lead to an indirect exchange of price related information.

14.3 There was no cartel between OP-1, OP-3 and OP-11. The DG's theory of there being a cartel between OP-1 and OP-3 based on identical IP addresses from which bids were quoted, is untenable. OP-1 and OP-3 may have participated in the same tenders, but while one was quoting for HPPA Bushes, the other was quoting for SLPR Bushes. Further, the Indian Railways was also well aware of OP-1 and OP-3 being sister entities. For the sake of complete disclosure, it is submitted that on



certain occasions, even OP-11 also filed the bids from OP-3's office; however, this was because OP-11 brought the major raw material 'prepreg' for SLPR Bushes, from OP-3 only. OP-11 could enter the business of SLPR Bushes only because of the help of OP-3 which provided to it the necessary raw material and technology to develop SLPR Bushes. However, it continued to face various technical difficulties for which it regularly consulted OP-1 and OP-3. Hence, it cannot be said that OP-11 provided cover bids for OP-1 and OP-3.

14.4 The DG has not investigated cartel conduct prior to 2016 despite there being evidence on record to show that the cartel was in operation from at least 2014.

14.5 The DG's conclusion regarding there being geographical allocation of market amongst the OPs is factually and legally, untenable. There is no evidence on record to regarding territorial/ geographical/ zonal allocation of tenders amongst the OPs.

14.6 OP-3 is an MSME and has undergone severe economic hardship on account of COVID-19 pandemic. Hence, monetary penalty ought not to be imposed on OP-3.

14.7 OP-3 has fulfilled all conditions mentioned in the LPR for grant of lesser penalty to it. It has provided full, true and vital disclosures and has extended full, continuous and expeditious co-operation. In fact, the disclosures made by OP-1 and OP-3 led to other participants also file for lesser penalty. The DG has also extensively relied upon the evidence provided by OP-3 to incriminate various OPs. Even before the filing of a lesser penalty application, Mr. Alok Somani of OP-3 had voluntarily made vital disclosures to the DG and provided direct evidence of cartel which included e-mails exchanged between the OPs in furtherance of the cartel. Hence, OP-3 ought to be granted the maximum benefit of reduction in penalty, if any, imposed upon it.

14.8 OP-3's participation in the cartel did not lead to any AAEC within India. In terms of the factors stated under Section 19(3) of the Act, OP-3's conduct neither created any entry barriers for new entrants in the market, nor drove existing competitors out of the market, nor led to foreclosure of competition by hindering entry into the market. Rather, OP-3 developed a technically superior product in the form of SLPR Bushes along with competing vigorously against incumbent HPPA Bushes



players who had formed a cartel which led to significant benefit to the consumer (Indian Railways). It helped OP-1 and OP-11 enter SLPR Bushes market leading to improvement in the production and distribution of SLPR Bushes. By developing SLPR Bushes, OP-3 solved long-standing technical problem faced by the Indian Railways thereby leading to promotion of technical and scientific development.

15. Power Mould, M/s Anju Techno Industries, Polyset Plastics Private Ltd., Mr. Bhupesh Bafna and Ms. Shanta Sohoni

15.1 The informal market understanding amongst the vendors with regard to the supply of HPPA Bushes to the Railways existed to safeguard and recover the investments in R&D put forth by the vendors and to deliver good quality product at reasonable price. The answering OPs were not fully aware of the exact and specific competition law in the country and the OPs will certainly be extra careful and cautious of all rules, regulations and existing compliances in all their future dealings. The informal arrangement between the OPs existed in ignorance of existing laws. Their intention or actions were not to prevent the entry of any new entity in the tender process *i.e.* anti-competitive in nature. The field and market was always open for all and the answering OPs' dealings have always been fair to all.

15.2 In the digital era, procurement system and subsequent tendering process of the Indian Railways is very robust and in no way can be influenced by the vendors. It is not the case that due to any action on part of the answering OPs, the price of the product increased or jacked-up.

15.3 The answering OPs have never been party to any earlier inquiry or investigation. The revenue earned by them from the sale of HPPA Bushes is also very less considering the overall business. Further, in light of the impact of COVID-19 pandemic and consequent lockdowns, the businesses of the answering OPs have suffered a lot. Hence, no penalty ought to be imposed upon the answering OPs.

16. Calstar Steel Ltd. and Mr. Vikas Agarwal

16.1 OP-6 has not been a member of the association amongst the OPs for a major portion of the period in question. It was not an active member and always had



reservations in forming or participating in this association. It was only a part of the association for a brief period from 05.12.2016 to 22.06.2017 and further from 01.03.2019 to 31.03.2020. It was a reluctant participant as it did not approve of this understanding/ association and joined for this brief period only at the insistence of other participants. From the documents on record, it is very clear that OP-6 had not quoted in any tender during the period 22.06.2017 to 01.03.2019 as per the directions of the association or participated in any manner with the association. The DG has missed out that OP-6 was not a regular participant and was a part of the association only for a brief period. As a result of not being a regular member, OP-6 was not able to get good rates and operated at a negligible profit.

17. Jai Polypan Pvt. Ltd., Mr. Vishal Baid, Mr. Rajeev Dhudani and Mr. Rajesh R.

17.1 OP-7 is a lesser penalty applicant before the Commission. Through its lesser penalty application, OP-7 has provided full, true and vital disclosures regarding the alleged cartel. OP-7 has extensively explained the cartel conduct by providing details of (i) the market structure in which the cartel arrangement took place; (ii) the members and *modus operandi* of the cartel, (iii) role of key persons involved in the cartel, (iv) e-mail correspondences regarding preparation and submission of bids in a concerted manner and indicating sharing of commercially sensitive and confidential price information between the OPs; and (v) chronology of the related events in which bid-rigging took place. Further, OP-7 also provided allocation tables, which contain details of all tenders for which the OPs had colluded with each other to fix prices and allocate quantity amongst each other. The allocation tables contained details of approximately 417 tenders from February 2016 till July 2020. Hence, OP-7 has made immense value addition by way of its submissions and extensively assisted the DG in arriving at its conclusions. The DG has heavily relied on the information and evidence submitted by OP-7. This value addition by OP-7 demonstrates the exact nature of collusion, which would have been difficult to ascertain without having received the extensive cooperation from OP-7. OP-7 also submitted evidence highlighting involvement of additional member(s) in the cartel conduct who have not been identified by the DG as relevant individual(s) under Section 48 of the Act. In light of this, and considering the fact that OP-7 has



fulfilled all conditions for grant of lesser penalty as mentioned under the LPR, OP-7 and its individuals should not be levied any penalty, and if a penalty is to be levied, OP-7 and its individuals ought to be granted the maximum applicable reduction in penalty under the LPR.

17.2 The DG has erred in observing that the OPs indulged in geographical allocation of the market. The Indian Railways distributes its operations into different zones across the country geographically and each railway zone procures its products separately by floating separate tenders. The DG rightly mentions that the OPs had allocated the market percentage to each vendor. However, this market percentage is not allocated on the basis of any geographic segmentation as the OPs supply their products to railways pan-India, *i.e.* across various railway zones.

17.3 Penalty, if any, ought to be imposed only on relevant turnover/ profit of OP-7, *i.e.* the turnover/ profit derived from sale of HPPA bushes in the relevant time period/ duration (*i.e.* 2016 to 2020)

17.4 Following mitigating factors ought to be considered in case the Commission deems it necessary to impose penalty: (i) OP-7 continuously co-operated with the Commission and the DG during the investigation; (ii) OP-7 earned insignificant profits from the cartel arrangement; (iii) OP-7 was forced to join hands with other vendors in order to secure their business because the market is driven and solely controlled by Indian Railways and vendors have to adhere to the framework and tender conditions stipulated by Indian Railways; (iv) OP-7 is a MSME unit with limited resources, and has suffered significant repercussions of COVID-19 pandemic and accordingly, imposition of penalty will put an additional significant financial burden on OP-7; and (v) OP-7 played a limited role in the cartel arrangement as Ms. Shanta Sohoni was responsible for co-ordinating amongst the members of the cartel.

17.5 OP-7 had also disclosed about existence of another cartel arrangement. The Competition Law Review Committee, in its report dated 26.07.2019, has acknowledged the challenges faced by the Commission in cartel detection and enforcement and, in view of this, recommended that where an applicant makes full, true and vital disclosure with respect to another cartel (Leniency Plus), such



applicant may be granted lesser penalty specified in the LPR. In view of this, the Commission, while deciding the quantum of penalty reduction in the present matter, may also take into account the additional disclosure of a contravention of Section 3 of the Act made by OP-7 in another matter. Considering the legislative desire for Leniency Plus, in addition to the comprehensive co-operation provided by OP-7 in this matter, the Commission may, considering the fact that OP-7 has also made full, true and vital disclosures with respect to another anti-competitive agreement, grant OP-7 and its individuals, 100% immunity from penalty in the present matter.

18. Polymer Products of India Ltd., Mr. Vishnu N.M., Mr. Venkata Subramanyam and Mr. Harsha Gumballi

18.1 OP-8 was not named as an OP in the initial reference received from the Informant. OP-8 and its individuals were rather impleaded by the DG later as an after-thought without any merit, solely on the basis of the fact that OP-8 had always participated in the tender process issued by the Indian Railways. However, the DG, in the investigation report, has failed to establish any relation between OP-8 and the other OPs.

18.2 The DG has failed to establish prior agreement of ‘meeting of minds’ between the OPs. The communications referred to between OP-8 and its individuals with other OPs rather express difference of opinions and disagreements. OP-8 has always followed fair trade practices and accordingly, avoids any professional communication with any competitor with respect to any tender whatsoever, for which OP-8 may or may not bid.

18.3 OP-8 was only a Part II supplier of HPPA Bushes/ SLPR Bushes to the Indian Railways. Part II suppliers are not considered for supply of more than 20% of the tendered quantity, that too only if the rate quoted by them is less than Part I source suppliers’ rate. Since OP-8 was offered 10% of the net procurable quantity in the Impugned Tender, it illustrates that OP-8 had quoted quite competitive rates to the Indian Railways based on various factors such as cost of raw material, labour cost, freight cost, *etc.* Being a part II source supplier, OP-8 is in no position to dictate the prices of HPPA Bushes/ SLPR Bushes, which are decided on the basis of



prices of Part I source suppliers. Part II source suppliers are left at complete mercy of Part I source suppliers and they are forced to follow the directions set by Part I source suppliers to survive in the market and procure business. Hence, OP-8, having no control over the market of HPPA/ SLPR Bushes, has not entered into any cartel arrangement and/ or manipulated the prices of HPPA/ SLPR Bushes.

18.4 OP-8 has not indulged in modification of any prices arising out of the cartel.

18.5 OP-8 had not quoted in any of the tenders through a common IP address with any other OP.

18.6 OP-8 had provided all relevant information, documents and evidence during the entire proceedings and has co-operated genuinely, fully, continuously and expeditiously in the present matter. It has not concealed, destroyed, manipulated or removed any relevant and necessary documents of the present case.

18.7 COVID-19 pandemic has had catastrophic impact on the entire world, especially small-scale industry like OP-8 which have been facing the brunt of uncertainty looming around the world economic structure since the onset of COVID-19. Hence, Commission may consider waiving of levy of any penalty upon OP-8 and its individuals.

19. **M/s Micro Engineers and Mr. Salimuddin**

19.1 There is no evidence in the DG Report which may even remotely connect OP-9 or Mr. Salimuddin to the alleged cartel. OP-9 and Mr. Salimuddin have been falsely implicated in the present case on the basis of mere suspicion and conjectures by the DG, without any application of mind to the facts, statements, e-mails, WhatsApp communications and documents on record.

19.2 OP-9 had received approval for participation in Tenders of Railways as Part-II Vendor for HPPA Bushes/ SLPR Bushes on 09.09.2015 from RDSO. It had participated only in 2 small tenders for HPPA bushes/ SLPR bushes concerning Purchase Orders ('PO') dated 09.03.2016 and 15.03.2016. However, as it incurred losses in the two (2), contemplating further losses, it stopped manufacturing HPPA bushes/ SLPR bushes and participating in railway tenders from the 2nd half of 2016. RDSO, on its own as per its rules, and without any application from OP-9,



extended the validity of approval granted to OP-9 till 08.09.2020 *vide* letter dated 17.07.2017. However, OP-9 did not participate in any railway tender for HPPA bushes/ SLPR bushes between 2nd half of 2016 and 2020 or beyond.

19.3 The DG has simply implicated OP-9 and Mr. Salimuddin on the basis of certain e-mails marked to them. However, OP-9 could not have prevented any other party to send any such e-mail to OP-9. None of such e-mails were ever replied to by or on behalf of OP-9. None of the e-mails were ever even acted upon by OP-9. OP-9 did not receive any P.O. from Railways post 15.03.2016 which itself shows that none of such e-mails marked to OP-9 were ever relevant to it.

20. **Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.), Mr. Luv Kumar and Mr. R.K. Singh**

20.1 OP-10 and its individuals have filed lesser penalty application before the Commission admitting to their limited participation in the cartel arrangement and as such, they have no objections to the findings contained in the investigation report.

20.2 OP-10 and its individuals, as lesser penalty applicant, have provided full, true and vital disclosures to assist the investigation and they have extended full co-operation as well. They have fulfilled all conditions set out in Section 46 of the Act and the provisions of the LPR. The admissions of individuals of OP-10 have been used and relied upon by the DG in its investigation report. As part of their lesser penalty application, OP-10 and its individuals have provided comprehensive details of the relevant market, vendors, products concerned, price/ rates quoted, formation and mode of operation of cartel *etc.* with supporting documents and meticulously compiled data represented in the form of tables, charts/ graphs in order to provide maximum aid to the investigation. The DG has also relied upon such information and data supplied by OP-10 and its individuals. As such, OP-10 and its individuals ought to be granted full benefit of lesser penalty and no penalty ought to be imposed upon them.

20.3 OP-10 is an MSME and a small market player in the relevant market. Its market share was 3.97% in 2016-17, 8.8% in 2017-18, 6.83% in 2018-19, 3.18% in 2019-20 and 2.15% in 2020-21 which differs from and is far less beneficial than the



share allocated to it in the cartel arrangement. The actual amounts received by OP-10 were miniscule and not as per the cartel arrangement. OP-10 mostly had a passive role in the cartel activity which is clear from the investigation report which clearly shows that very limited correspondences were exchanged by the individuals of OP-10 in comparison to other parties.

20.4 OP-10 and its individuals have ceased to participate in the cartel and have also put appropriate structures in place to effectively implement Competition Law Compliance policies in future.

20.5 The COVID-19 pandemic has had disastrous impact on small scale businesses like OP-10. Hence, any penalty decided to be imposed upon OP-10 ought to be waived off. This has also been the recent trend of the Commission in various other matters.

21. Skylark Projects Pvt. Ltd. and Mr. Shirish Tapuriah

21.1 No submissions were filed on behalf of OP-11, and neither anyone appeared on behalf of OP-11.

Analysis:

22. The Commission has perused the applications seeking lesser penalty filed by OP-3, OP-1, OP-7 and OP-10 under Section 46 of the Act, the investigation report submitted by the DG and the evidences collected by the DG, the suggestions/ objections to the DG Report and written arguments filed by the parties, and also heard the oral arguments made by the respective learned counsel representing the parties in the matter.
23. The Commission notes that in the present matter, allegations relate to cartelisation in the Informant's bidding process with respect to the Impugned Tender issued by the Indian Railways, for HPPA Brake Bushes and/ or SLPR Brake Bushes.
24. From the DG Report, it is noted that Brake Bushes are spherical linings used in bush holders of brake hanger of railway coaches for reducing friction while connecting the hanger to the Chassis and Brake Shoe. The DG has noted that passenger coaches earlier made by the Indian Railways had braking system which used Bronze Bushes. Thereafter, Brake Bushes made out of acetal, nylon and lastly Phenolic Bushes were used. However, in 2004-05, the Indian Railways initiated field trials with SLPR Brake



Bushes and since the same gave promising results, Indian Railways gave approval to SLPR Bushes and divided Brake Bushes Kit into two parts – Brake Bushes for critical locations and Brake Bushes for non-critical locations. SLPR Bushes were approved for critical locations and Phenolic Bushes continued to be used for non-critical locations. Ultimately, due to poor performance of Phenolic Bushes, SLPR Bushes were approved for all locations despite their high cost. Simultaneously, trials were also approved for non-critical locations in HPPA Bushes. Thereafter, the Indian Railways passed an order to procure SLPR Bushes and HPPA Bushes as alternates to each other depending on the price that the lowest bidder was offering.

25. From the evidence on record, it is noted that SLPR Bushes are manufactured by three OPs *i.e.* OP-1, OP-3 and OP-11 while HPPA Bushes are manufactured by 10 OPs *i.e.* all the OPs except OP-11. Thus, evidently, all the OPs are engaged in the manufacture and supply of HPPA Bushes and/ or SLPR Bushes to the Indian Railways, though OP-9 which started the manufacture of HPPA bushes in 2012-13 did not continue in such line of activity for too long. Hence, since all the OPs have been engaged in identical or similar trade of goods, their alleged cartel conduct shall be analysed by the Commission in terms of Section 3(3) of the Act.
26. The Indian Railways, in order to ensure reliability, availability and safe working of Railway assets, follows the practice of maintaining lists of approved vendors for certain specific items. It is noted from the DG Report that SLPR Bushes and HPPA Bushes were two of such items. Research Designs and Standards Organization (**'RDSO'**) is the nodal agency of the Indian Railways for vendor approval. It maintains two lists – of Part I vendors and of Part II vendors. RDSO approved vendors included in Part I are eligible for regular supply to the Indian Railways and for getting an order for full quantity of tenders floated by the Indian Railways, whereas vendors approved and included in Part II are eligible for developmental order and for getting an order for part quantity (up to 25% only). For SLPR Bushes and HPPA Bushes, the RDSO approved vendors along with their timelines are as follows:



Manufacturer	Date of approval as Part II source	Date of approval as Part I source
OP-3	21.07.2009 (SLPR) 14.09.2016 (HPPA)	05.04.2013 (SLPR) 19.12.2017 (HPPA)
OP-1	01.09.2009 (SLPR) 29.09.2017 (HPPA)	12.06.2015 (SLPR) -
OP-11	04.09.2012 (SLPR)	-
OP-4	07.09.2009 (HPPA)	20.11.2013 (HPPA)
OP-5	19.01.2010 (HPPA)	12.06.2017 (HPPA)
OP-2	19.01.2010 (HPPA)	01.05.2015 (HPPA)
OP-8	22.01.2016 (HPPA)	23.08.2019 (HPPA)
OP-10	16.07.2014 (HPPA)	24.05.2017 (HPPA)
OP-7	06.03.2012 (HPPA)	27.05.2014 (HPPA)
OP-6	01.09.2016 (HPPA)	01.03.2019 (HPPA)
OP-9	01.01.2016 (HPPA)	-

27. In the above background, the Commission shall analyse as to whether there was any cartelisation in the Informant's bidding process between the OPs, with respect to the Impugned Tender and/ or other tenders issued for HPPA Bushes/ SLPR Bushes.
28. From the DG Report, it is first of all noted that the bids for SLPR Bushes/ HPPA Bushes quoted by the two original OPs *i.e.* OP-1 and OP-2, in several tenders across different Railway Zones including North Western Railway, Central Railway and South Western Railway, were as under:

S. No.	Tender No.	Tender floated by	Opening date	Participating Company/ Firm	Product	Price Quoted (₹)
1.	30162151-A	North Western Railways	02.09.2016	1. OP-1	SLPR	5483.75
				2. OP-2	HPPA	5483.75
2.	11162236	Central Railways	08.07.2016	1. OP-1	SLPR	2802.53
				2. OP-2	HPPA	2802.53
3.	30161250	South Western Railways	14.07.2016	1. OP-1	SLPR	6787.07
				2. OP-2	HPPA	6787.07
4.	38172236	Central Railways	10.07.2017	1. OP-1	SLPR	2774.1
				2. OP-2	HPPA	2774.1



From the above, it is observed that though OP-1 and OP-2 were based out of different geographical locations *i.e.* Kolkata and Daman respectively, the prices quoted by them to the Railways, that too for different substitutable products (*i.e.* HPPA Bushes and SLPR Bushes) requiring different raw materials, were exactly the same.

29. Hence, though in the reference, price parallelism by OP-1 and OP-2 was alleged, however, the DG, during investigation, went into a detailed analysis of the bids quoted by the various bidders in various Railway tenders issued by various Railways Zones for SLPR Bushes/ HPPA Bushes.
30. From an analysis of the tender quotations made by the various bidders for SLPR Bushes/ HPPA Bushes in different Railways Zones, the following instances of price parallelism were also found:

S. No.	Tender No.	Tender floated by	Opening date	Participating Company/ Firm	Price Quoted (₹)
1.	04171074	East Central Railways	07.11.2017	1. S.K. Plasto	3990
				2. OP-8	4731.3
				3. OP-3	4410
				4. OP-1	5696.25
				5. OP-7	5428.5
				6. OP-2	5755.05
				7. OP-5	5806.5
				8. OP-4	5755.05
				9. OP-11	5985
				10. OP-6	5475.75
2.	3016001	North Frontier Railways	22.08.2016	1. OP-3	4052.43
				2. OP-1	5370.23
				3. OP-7	5509.85
				4. OP-2	5509.85
				5. OP-5	5398.05
				6. OP-4	5843.12
				7. Puran	6065
				8. OP-10	5238.89



सत्यमेव जयते



S. No.	Tender No.	Tender floated by	Opening date	Participating Company/ Firm	Price Quoted (₹)
3.	30161156	West Central Railways	25.10.2016	1. OP-3	3106.65
				2. OP-1	4674.6
				3. OP-2	4359.13
				4. OP-5	4307.31
				5. OP-4	4729.23
				6. OP-7	4359.13
				7. OP-6	3439
				8. OP-10	4160.39
				9. OP-8	4249.54
4.	30161157-A	West Central Railways	28.10.2016	1. OP-3	1200.11
				2. OP-1	1947.75
				3. OP-2	1811.96
				4. OP-5	1793.04
				5. OP-4	1975.29
				6. OP-7	1811.96
				7. OP-6	1769.5
				8. OP-10	1811.96
5.	30161155	West Central Railways	21.07.2017	1. OP-3	3578.4
				2. OP-1	4509.75
				3. OP-2	4507.65
				4. OP-5	4551.75
				5. OP-4	4637.85
				6. OP-10	4637.85
6.	30181157	West Central Railways	26.07.2018	1. OP-3	2007.6
				2. OP-1	1806
				3. OP-2	2205
				4. OP-5	2107.35
				5. OP-4	2289
				6. OP-10	2110.5
				7. OP-6	1575



S. No.	Tender No.	Tender floated by	Opening date	Participating Company/ Firm	Price Quoted (₹)
				8. OP-8	1774.5
				9. OP-11	2415
				10. OP-7	2110.5

From the above data, it is clearly depicted that the other OPs, apart from OP-1 and OP-2, were also quoting prices which were identical to one or the other OPs in various Railway tenders issued by different Railways Zones. In fact, the DG has pointed out that in certain instances, OPs viz. OP-4, OP-7, OP-10 and OP-5, who were based out of different geographical locations at Mumbai, Jaipur, Ghaziabad and Vapi (Gujarat) respectively, had quoted identical prices for the same products though separated by inter-state borders.

31. In addition, it has also been pointed out in the DG Report that some OPs, based in the same city and state, manufacturing the same product, had also at times quoted substantially different prices in the same tender, for which there seems to be no justification.

Tender No. 61160449 floated by Northern Railway and opened on 23.12.2016

S. No.	Company/ Firm	Product	Price (₹)
1.	OP-1	SLPR	4,090
2.	OP-11	SLPR	4,750
3.	OP-3	SLPR	8,000

Tender No. 3018250 floated by Southern Railway and opened on 17.05.2018

S. No.	Company/ Firm	Product	Price (₹)
1.	OP-1	SLPR	7,075
3.	OP-3	SLPR	5,052

32. Besides, the DG has also gathered information about the OPs from the RDSO, from which it is noted that there were two groups (Group I and II) which were operated by common directors/ partners:

Group I		
S. No.	Company/ Firm	Director/ Partner
1.	OP-4	i. Mr. Bhupesh Bafna ii. Ms. Anju Bafna
2.	OP-5	i. Mr. Bhupesh Bafna ii. Ms. Shailesh Bafna
3.	OP-2	i. Mr. Bhupesh Bafna



Group II		
S. No.	Company/ Firm	Director/ Partner
1.	OP-3	i. Mr. Alok Somani ii. Mr. Parikshit Somani
2.	OP-1	i. Ms. Manjushree Somani ii. Ms. Tanushree Somani (Ms. Manjushree Somani has authorised her husband Mr. Alok Somani to take business decisions)

From the above, it is observed that three OPs *i.e.* OP-4, OP-5 and OP-2, were controlled by Mr. Bhupesh Bafna as Partner/ Director while two other OPs *viz.* OP-3 and OP-1, were controlled by Mr. Alok Somani as Partner/ authorised representative. The DG has found that these sets of entities were also declared as sister companies before the RDSO and yet they were participating in the same tenders for the same products as competitors.

33. In regard to these sets of sister entities, the Commission also notes from the details of IP addresses from which bids were filed by them in various railway tenders that in at least the following 34 tenders for HPPA Buses/ SLPR Buses, bids were submitted by them from a common IP address:

S. No.	Tender No.	Tender floated by	Opening date	Common IP addresses
1.	30162151-A	North Western Railways	02.09.2016	i. OP-2 and OP-4 ii. OP-1 and OP-3
2.	30181250	South Western Railways	17.05.2018	OP-1 and OP-3
3.	51191329	Northern Railways	14.05.2019	OP-1 and OP-3
4.	04184022	East Central Zone	18.07.2018	OP-1 and OP-3
5.	30182151-C	North Western Zone	10.04.2018	OP-1, OP-3 and OP-11
6.	30182151-D	North Western Zone	04.09.2018	OP-1 and OP-3
7.	30182151-E	North Western Zone	19.04.2018	OP-1 and OP-3
8.	57160025	Southern Railways	17.08.2016	OP-2, OP-4 and OP-5
9.	51191329	Northern Railways	14.05.2019	OP-2, OP-4 and OP-5
10.	0191536	South Central Railways	19.03.2019	OP-2 and OP-5
11.	30191534	South Central Railways	20.03.2019	OP-2 and OP-5
12.	301160861	RCF Railways	27.03.2019	OP-2, OP-4 and OP-5
13.	2165809B	South Western Railways	31.03.2019	OP-2, OP-4 and OP-5



सत्यमेव जयते



S. No.	Tender No.	Tender floated by	Opening date	Common IP addresses
14.	70160069	Southern Railways	23.03.2017	OP-2 and OP-5
15.	07181538	Northern Railways	22.03.2019	OP-2, OP-4 and OP-5
16.	2165809A	South Western Railways	20.03.2017	OP-2, OP-4 and OP-5
17.	2301160836	RCF	16.03.2017	OP-2, OP-4 and OP-5
18.	3165426	North Western Railways	20.03.2017	OP-2, OP-4 and OP-5
19.	30171520	South Central Railways	04.04.2017	OP-2, OP-4 and OP-5
20.	L2165808	South Western Railways	09.03.2017	OP-2, OP-4 and OP-5
21.	L2165809	South Western Railways	09.03.2017	OP-2, OP-4 and OP-5
22.	30163136	South Eastern Railways	23.03.2017	OP-2 and OP-5
23.	30171534	South Central Railways	04.04.2017	OP-2 and OP-5
24.	2301160806	RCF	06.03.2017	OP-2, OP-4 and OP-5
25.	301160616-A	RCF	03.03.2017	OP-2, OP-4 and OP-5
26.	30171156	West Central Railways	28.03.2017	OP-2, OP-4 and OP-5
27.	30171157	West Central Railways	28.03.2017	OP-2, OP-4 and OP-5
28.	2150277A	North Eastern Railways	15.03.2017	OP-2, OP-4 and OP-5
29.	74160058	Southern Railways	04.11.2016	OP-2 and OP-5
30.	03162030-A	South East Central Railways	24.10.2016	OP-2, OP-4 and OP-5
31.	03160109	South Western Railways	20.10.2016	OP-2, OP-4 and OP-5
32.	30161157-A	West Central Railways	28.10.2016	OP-2, OP-4 and OP-5
33.	30161156	West Central Railways	25.10.2016	OP-2, OP-4 and OP-5
34.	30163627	South Central Railways	18.10.2016	OP-2, OP-4 and OP-5

34. Further, in respect of sister concerns OP-2, OP-4 and OP-5, from the login details including user ID, user name, IP address, login date and time, logout date and time and caller ID details procured by the DG from the service provider, the Commission notes that all bids in respect of these three entities were filed from a common address in Mumbai by a common user, even though the entities displayed their registered offices in different states:



सत्यमेव जयते



S No.	ID	User	IP Address	Login Date & time	Logout Date & time	Caller ID
1	9958609	jethalal	45.117.250.242	3/21/2017 12:55:39 PM	3/21/2017 7:41:33 PM	90:6C:AC:3A:49:A1
2	10025230	jethalal	180:148:62:71	04-01-2017 14:32	04-01-2017 22:32	90:6C:AC:3A:49:A1
3	10022859	jethalal	180:148:62:71	04-01-2017 13:22	04-01-2017 14:31	90:6C:AC:3A:49:A1
4	9995854	jethalal	180:148:62:71	3/27/2017 5:11:19 PM	3/28/2017 1:11:19 AM	90:6C:AC:3A:49:A1
5	9993849	jethalal	180:148:62:71	3/27/2017 10:12:57 AM	3/27/2017 5:11:08 PM	90:6C:AC:3A:49:A1
6	9942386	jethalal	182.237.163.163	3/18/2017 12:53:45 PM	3/18/2017 8:53:45 PM	90:6C:AC:3A:49:A1
7	9952993	jethalal	182.237.163.163	3/20/2017 12:55:08 PM	3/20/2017 8:55:08 PM	90:6C:AC:3A:49:A1
8	9227877	jethalal	58.146.103.255	11/17/2016 3:52:59 PM	11/17/2016 11:53:01 PM	00:22:6B:3D:E9:A3
9	9238325	jethalal	58.146.103.255	11/19/2016 3:56:32 PM	11/19/2016 11:56:33 PM	00:22:6B:3D:E9:A3
10	9236108	jethalal	58.146.103.255	11/19/2016 7:55:56 AM	11/19/2016 3:55:58 PM	00:22:6B:3D:E9:A3
11	9292477	jethalal	58.146.103.255	11/30/2016 9:59:13 AM	11/30/2016 5:59:15 PM	00:22:6B:3D:E9:A3
12	9297471	jethalal	58.146.103.255	12-01-2016 10:01	12-01-2016 18:01	00:22:6B:3D:E9:A3
13	9426534	jethalal	58.146.103.255	12/22/2016 6:44:55 AM	12/22/2016 2:44:55 PM	90:6C:AC:3A:49:A1
14	10721206	jethalal	58.146.103.247	08-03-2017 08:15	08-03-2017 10:41	90:6C:AC:3A:49:A1
15	10719394	jethalal	58.146.103.247	08-02-2017 16:21	08-03-2017 00:15	90:6C:AC:3A:49:A1
16	10721291	jethalal	58.146.103.247	08-03-2017 10:43	08-03-2017 11:11	90:6C:AC:3A:49:A1
17	9911803	jethalal	182.237.160.197	3/14/2017 11:24:22 AM	3/14/2017 7:24:23 PM	90:6C:AC:3A:49:A1
18	9152803	jethalal	202.177.252.40	11-03-2016 12:02	11-03-2016 20:02	0C:D2:B5:4F:D0:79
19	9120214	jethalal	202.177.252.40	10/27/2016 1:38:22 PM	10/27/2016 9:38:22 PM	0C:D2:B5:4F:D0:79
20	9072945	jethalal	202.177.252.40	10/19/2016 12:52:19 PM	10/19/2016 8:52:19 PM	0C:D2:B5:4F:D0:79



35. As far as the other OPs are concerned, while analysing different tenders across India, it is observed that in the following tenders for HPPA Bushes/ SLPR Bushes, few OPs had submitted bids in close proximity to each other in terms of timing:

Tender No. 4107160179 opened from 06.04.2016 to 18.05.2016

S. No.	Company/ Firm	Bid filed date and time	Revised	Price quoted (₹)
1.	OP-1	13.05.2016 16:22 Revised	18.05.2016 10:52	Rs. 82,90,000 74,61,000 (Revised)
2.	OP-7	18.05.2016 10:06	-	79,06,057
3.	OP-10	18.05.2016 10:10	-	76,95,126
4.	OP-3	18.05.2016 10:38	-	71,29,400
5.	OP-2	17.05.2016 10:55 Revised	18.05.2016 10:06	78,49,022 76,72,975 (Revised)

In the above tender, the parties had either filed their bids on 18.05.2016 or revised their prices on 18.05.2016. Further, all the parties had filed their bids between 10:06 to 10:55 a.m.

Tender No. 04170921 of Southern Railways opened on 17.07.2017

S. No.	Company/ Firm	Bid filed date and time	Price quoted (₹)
1.	OP-1	15.07.2017 15:12	6,718.95
2.	OP-5	15.07.2017 07:06	7,122.15
3.	OP-10	15.07.2017 17:40	7,265.55
4.	OP-3	15.07.2017 16:37	5,598.60
5.	OP-2	15.07.2017 16:43	6,714.23
6.	OP-4	15.07.2017 17:32	7,255.50

In the above tender also, all bids were filed on 15.07.2017 even though the last date for filing of tender was 17.07.2017.

36. In the view of the Commission, such close proximity of date and timings in submission of bids by the OPs cannot be a mere co-incidence. Hence, from the above evidences, there appears to be some sort of collusion not only between OP-1 and OP-2, but also amongst 06 other OPs as well, with respect to the tenders quoted issued by the Indian Railways for the procurement of HPPA Bushes/ SLPR Bushes.
37. In order to understand the exact nature of such collusion, the Commission proceeds to analyse the various e-mail communications/ WhatsApp communications exchanged between the following key representatives of the OPs, with regard to the various



tenders issued by the Indian Railways for the procurement of HPPA Bushes/ SLPR Bushes:

1.	OP-1	Mr. Alok Somani
		Mr. Amit Somani
2.	OP-3	Mr. Alok Somani
		Mr. Amit Somani
		Mr. Tarkeshwar Thakur
3.	OP-2	Mr. Bhupesh Bafna
4.	OP-4	Mr. Bhupesh Bafna
5.	OP-5	Mr. Bhupesh Bafna
		Ms. Shanta Sohoni
6.	OP-6	Mr. Vikas Agarwal
		Mr. Ram Chandra
7.	OP-7	Mr. Vishal Baid
		Mr. Rajeev Dudhani
		Mr. Rajesh Nair
8.	OP-8	Mr. Vishnu NM
		Mr. Harsha Gumballi
		Mr. A Venkata Subramanyam
9.	OP-9	Mr. Salimuddin
10.	OP-10	Mr. Luv Kumar
		Mr. R.K Singh
11.	OP-11	Mr. Shirish Tapuriah

38. First of all, communications exchanged between the OPs with respect to the Impugned Tender shall be analysed. It is noted that Tender No. 30.16.2151 was floated by North Western Railway on 17.05.2016 calling RDSO approved sources for procurement of 4108 sets of HPPA/ SLPR bushes. Prices quoted therein were as follows:

Bidding by RDSO approved Part I sources		
Vendor	Item	Bid Price (₹)
OP-1	SLPR	4,550
OP-2	HPPA	4,563.75
Bidding by RDSO approved Part II Sources		
Vendor	Item	Bid Price (₹)
OP-3	HPPA	3,299.99
OP-8	HPPA	4,540.30



39. As the lowest offer was received from Part II source OP-3, it was considered by the Informant for 15% of net procurable quantity *i.e.* 602 sets. Next higher offer was also from Part II source OP-8, hence, it was also considered for 10% of net procurable quantity *i.e.* 402 sets at the counter offer of rate quoted by OP-3. However, it did not accept. Lowest offer from Part I source was from OP-1 which was considered for bulk order. Next higher offer was from Part I source OP-2 which was also considered for bulk order at counter offer of OP-1 as per the splitting clause. However, during negotiations, neither reduced the price. As such, order could only be placed on OP-3 for 602 sets and remaining quantity had to be retendered.
40. Revised Tender No. 30.16.2151-A was opened on 02.09.2016. Details of bids quoted in the same were as follows in which both Part I sources quoted identical prices:

Bidding by RDSO approved Part I sources		
Vendor	Item	Bid Price (₹)
OP-1	SLPR	<u>5,483.75 (L1)</u>
OP-2	HPPA	<u>5,483.75 (L1)</u>
Bidding by RDSO approved Part II Sources		
Vendor	Item	Bid Price (₹)
OP-3	HPPA	4,006.80 (L1)
OP-10	HPPA	4,674.60 (L2)
OP-6	HPPA	4,999.43 (L3)
OP-5	HPPA	5,398.16 (L4)

41. In regard to this re-tender, it is noted from the DG report that the following e-mails were exchanged between the parties:
- (i) E-mail dated 03.06.2016 sent by Ms. Shanta Sohoni of OP-5 to Mr. Alok Somani of OP-1/ OP-3, Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5, and OP-7:
“As discussed, allotment of Brake gear bushes is enclosed herewith.”
- (ii) Response of Mr. Alok Somani of OP-1/ OP-3 *vide* e-mail dated 03.06.2016:
“Are these basic prices or all-inclusive prices”
- (iii) Reply by Ms. Shanta Sohoni of OP-5 *vide* e-mail dated 03.06.2016:
“These are basic rates ED @ 6% extra + CST/VAT @ 5% or 5.5% extra whichever is applicable. Non-allotties will quote 7-8% higher than PLR.”



(iv) E-mail dated 04.08.2016 sent by Ms. Shanta Sohoni of OP-5 to the OPs:

“Subject: Allotment for New Bush tenders

S. No.	Rly.	Tender No.	Due Dt.	Item	Tender Qty.	75% Qty. for Part I supplier	Rate	Value	PPPL	BBC
20.	NWR	301621 51-A	02/09/16	Kit for Brake Gear Bushes Size 2 x 32 x 20 = 120 Nos., Bush Size 42 x 32 x 32 = 52 Nos. Bush 70 x 57 x 25.5 = 32 Nos. Bush Size 32 x 23 x 20 = 08 Nos.	3506	2630	4927	12955547	6477773	6477773”

42. The above chain of e-mails exchanged between OP-1/ OP-3, OP-2/ OP-4/ OP-5, and OP-7 shows that Ms. Shanta Sohoni of OP-5 had sent an e-mail dated 03.06.2016 to the other OPs allotting there-amongst, Brake Gear Bushes tender. In response to such allotment e-mail, Mr. Alok Somani of OP-1/ OP-3 sought confirmation as to whether the price agreed in the table was the basic price or all-inclusive price. To that, Ms. Shanta Sohoni responded stating that it was the basic price wherein Excise Duty @ 6% extra + CST/ VAT @ 5% was to be added. Thereafter, as per the e-mail dated 04.08.2016 of Ms. Shanta Sohoni of OP-5, the rate decided to be quoted by OP-1 and OP-2 in this re-tender was ₹4,927.

43. The actual financial bids received in this re-tender, as submitted by the Informant, are as follows:

Supplier Name/ Rank	Basic Rate/ Unit (₹)	Excise duty	S.T Type-S.T Rate (%)	Total All-inclusive Value (₹)
Moulded Fibreglass Kolkata (L-5)	4927.00	Maximum Applicable – 6%	CST Extra-5	5483.75
Power Mould Daman (L-5)	5483.75	ED Inclusive	CST Inclusive-5	5483.75

44. From the above, it is evident that in the Impugned Tender, OP-2 had cleverly quoted an all-inclusive price in the basic rate column of ₹5,483.75 while OP-1 had quoted ₹4,927 as agreed in the allocation table which when summed up with 6% ED and 5% CST was ₹5,483.75. Further, basic rate plus Excise Duty & CST and all-inclusive rates were also identical for both the companies. Therefore, it is evident that there was a clear understanding amongst the parties OP-1 to OP-5 and OP-7 in determination of prices



and allocation of market in regard to the Impugned Tender, which is in contravention of the provisions of Section 3(3)(a), 3(3)(c) and 3(3)(d) of the Act.

45. Further, it is noted from the DG Report that not only with respect to the Impugned Tender, but also with respect to other tenders issued by the different zones of the Indian Railways from FYs 2016-17 to 2019-20 for the procurement of HPPA Bushes/ SLPR Bushes, various e-mail communications were exchanged between the OPs relating to determination of prices, allocation of market, and rigging of bids. The same are depicted in tabulated form, as under:

[SPACE INTENTIONALLY LEFT BLANK]



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
1.	11.04.2016	Ms. Shanta Sohoni of OP-5 to Mr. Harsha Gumballi of OP-8, OP-9, Mr. R.K. Singh of OP-10, and OP-7	<i>Subject: Bush 1 AC.xls Attachment: Bush 1 AC.xls Allotment for tenders due on 12/4/16</i>	Ms. Shanta Sohoni allocates tenders between the OPs and sends as attachment Price List Rates, allocation tables, and share of each party. She also indicates the percentage by which the non-allotties should quote higher than PLR.
	16.04.2016	Ms. Shanta Sohoni of OP-5 to OP-9, Mr. R.K. Singh of OP-10, and OP-7	<i>Subject: Bush 1 AC.xls Attachment: Bush 1 AC.xls</i>	
	28.04.2016	Ms. Shanta Sohoni of OP-5 to Mr. Harsha Gumballi of OP-8, OP-9, Mr. R.K. Singh of OP-10, and OP-7	<i>Subject: Bush 1 AC.xls Attachment: Bush 1 AC.xls</i>	
	09.05.2016	Ms. Shanta Sohoni of OP-5 to OP-7, OP-9, Mr. Harsha Gumballi of OP-8, and Mr. R.K. Singh of OP-10	<i>Subject: Bush 1 AC.xls Attachment: Bush 1 AC.xls New Allotment of HPPA Bushes</i>	
	03.06.2016	Ms. Shanta Sohoni of OP-5 to Mr. Alok Somani and Mr. Amit Somani of OP-1/ OP-3, and OP-7	<i>Subject: Bush allotment.xls Attachment: Bush allotment.xls As discussed, allotment of brake gear bushes is enclosed herewith.</i>	
	03.06.2016	Mr. Alok Somani of OP-1/ OP-3 to Ms. Shanta Sohoni of OP-5	<i>Are these basic prices or all-inclusive prices</i>	
	03.06.2016	Ms. Shanta Sohoni of OP-5 to Mr. Alok Somani and Mr. Amit Somani of OP-1/ OP-3, and OP-7	<i>These are basic rates ED @ 6% extra + CST/ VAT @ 5% or 5.5% extra whichever is applicable. Non-allotties will quote 7-8% higher than PLR.</i>	
	17.06.2016	Ms. Shanta Sohoni of OP-5 to Mr. Alok Somani of OP-1/ OP-3, Mr. Tarkeshwar Thakur of OP-3, and OP-7	<i>Subject: Bush allotment.xls Attachment: Bush allotment.xls Due to oversight, we have quoted lower rate in SCR tender opened on 15/6/16. Therefore, we are sending herewith revised allotment for your further action</i>	
	24.06.2016	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, and	<i>New Allotment with some changes for Bushes.</i>	



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
		OP-7		
	24.06.2016	Mr. Tarkeshwar Thakur of OP-3 to Ms. Shanta Sohoni of OP-5, and OP-7	Dear Sir, This time qty/ set of SCR tender due on 27.06.16 is different than earlier tender opened on 15.06.16. Hence price should be Rs. 2,464/- instead of Rs. 1,335/ as mentioned in allocation sheet. Please check and revise the allocation sheet. Further please also do the allocation for ECOR Tender No. 03163779 due on 14.07.16 for 1550 sets.	
	24.06.2016	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, Mr. Alok Somani and Mr. Amit Somani of OP-1/ OP-3, and OP-7	Subject: Bush allotment.xls Attachment: Bush allotment.xls Allotment of Bush with allotment of EcoR	
2.	23.05.2016	WhatsApp chat between Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 and Mr. Alok Somani of OP-1/ OP-3	Bhupesh Bafna: Sir, any thoughts to my proposal Alok Somani: 4 shares for 4 approvals Bhupesh Bhupesh Bafna: Spoke to them. They are all suggesting 3 shares. I think its reasonable. But its your call Alok Somani: You need to convince them I am not being unreasonable Bhupesh Bafna: I have spoken to them a couple of times. We have the following on the approved list. BB, PPPL, JP, QUADRANT, MICRO, POLYMER Alok Somani: So what percentage of total are you proposing to me	WhatsApp chat in addition to above e-mails displays concerted action between Mr. Bhupesh Bafna and Mr. Alok Somani regarding sharing of market as per allocated shares in forthcoming tenders.
3.	27.06.2016	Ms. Shanta Sohoni of OP-5 to OP-7	ICF tender No. 02167323 due on 01/07/16 is allotted between Polyset & Jai Polypan PLR Rate is Rs. 4601/- Polyset will quote Rs. 4,600/- + ED @ 6% + CST @ 5% = Total Rs. 5,119.80 per set. JPPL is requested to quote Rs. 5,119.80 (all inclusive) Pl. confirm the same.	Ms. Shanta Sohoni allocates ICF tender between OP-5 and OP-7 and provides rates to be quoted.
4.	04.07.2016	Mr. Tarkeshwar Thakur of OP-3 to OP-7	Dear Sir, We are quoting basic rate of Rs. 6,098.00 + ED @ 6% + CST @ 5% (Rs. 6,787.07 all incl.)	OP-3 and OP-7 are sharing prices to be quoted in



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<i>in S. Rly tender due on 06.07.16. So JPPL to quote all-inclusive rate of Rs. 6,787.07. Please confirm the same.</i>	Southern Railway forthcoming tender with each other and Ms. Shanta Sohoni is co-ordinating such exchange.
	04.07.2016	Mr. Rajesh Nair of OP-7 to Mr. Tarkeshwar Thakur of OP-3	<i>Dear Sir, Okay. We hereby confirm the rate all-inclusive rate of Rs. 6,787.07. Regards Rajesh Nair</i>	
	04.07.2016	Mr. Rajesh Nair of OP-7 to Ms. Shanta Sohoni of OP-5	<i>Mam, Pl. note that SR tender due on 6/07/2016 for 3300 sets allotted to BBC and JPPL with rate of Rs. 6098/- Basic. BBC is now quoting sales tax rate @ 5% whereas JPPL should quote 5.5% as per Government of Rajasthan, then there is a difference in the total rate. Pl. confirm what rate we have to quote on this tender? Whether it is all inclusive rate and also confirm from BBC for their rates. Pl. reply immediately. Also there is a confusion in ICF tender opened on 1/7/2016 as BBC rate is L2 Regards Rajesh Nair</i>	
	04.07.2016	Ms. Shanta Sohoni of OP-5 to OP-7	<i>Pl. discuss with BBC before quoting the rate.</i>	
5.	04.07.2016	Mr. Alok Somani of OP-1/ OP-3 to OP-7	<i>Please note the following:- a) Tenders where HPPA/ SLPR bushes are specified, we quote only for SLPR bushes and not for HPPA bushes b) Tender where only HPPA bushes are specified, we quote in BBC and are eligible for part 2 qtys which are out of scope of present arrangement.</i>	Ms. Shanta Sohoni clarifies to the OPs that cartel is only for tenders where both types of bushes – SLPR and HPPA are required. In reply, OP-7 states that pool for tenders for only HPPA Bushes should also be continued as it was between OP-7 and OP-5
	06.07.2016	Ms. Shanta Sohoni of OP-5 to Mr. Alok Somani of OP-1/ OP-3, and OP-7	<i>Sir, We have understanding for P1 approved firms PPPL & PM = 2 firms for HPPA BBC & MFGP = 2 firms for SLPR JPPL = 1 firm or HPPA BBC firms cannot quote for tenders floated only for HPPA bushes and Polysat Group and JPPL cannot quote for tenders floated for SLPR bushes.</i>	



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			Therefore, henceforth, allotments will be done where both types of bushes are required in same tender. If requirement is for anyone type of bush i.e. HPPA or SLPR separately, those tenders will not be allotted and accounted for pool. Pl. confirm.	previously. Ms. Shanta Sohoni agrees to the same stating that allocation shall be 33% share for each firm.
	06.07.2016	Mr. Rajesh Nair of OP-7 to Ms. Shanta Sohoni of OP-5	Mam, JPPL agrees in this matter. But if any tender for separate HPPA bushes, PPPL & JPPL should have pool and there should be a separate account and allocation for those tenders to avoid any underquote or misunderstanding. Earlier also PPPL & JPPL have such type of allocation arrangements and our suggestion is that we both (PPPL & JPPL) continue this arrangement in Part 1 category. Please Confirm, Regards Rajesh Nair,	
	06.07.2016	Ms. Shanta Sohoni of OP-5 to OP-7	Yes, then we will make separate account and ratio will be 2:1 i.e. 33% share to each firm	
6.	30.07.2016	Ms. Shanta Sohoni of OP-5 to OP-7	As per discussion had with Shri Rajiv, we are doing allotments between Jai Polypan and Polyset for HPPA Bushes Part 1 only. Ratio 2:1 (Polyset 2 firms and JPPL 1 firm) Any doubt, pl. discuss	OP-7 and Ms. Shanta Sohoni discuss that pool for combined HPPA/ SLPR tenders and for only HPPA tenders should be separate.
	01.08.2016	Mr. Rajeev Dudhani of OP-7 to Ms. Shanta Sohoni of OP-5	Mam, OK. There should be separate account for HPPA & SLPR combined tenders. Regards Rajeev Dudhani	
	01.08.2016	Ms. Shanta Sohoni of OP-5 to OP-7	Yes, we will continue SLPR/ HPPA A/c. separately and HPPA A/c. separately.	
7.	04.08.2016	Ms. Shanta Sohoni to Mr. Tarkeshwar Thakur of OP-3, and OP-7	Subject: Allotment for New Bush tenders Attachments: Bush allotment.xls	Ms. Shanta Sohoni allocates tenders between the OPs and sends as attachment Price List Rates, allocation tables,



सत्यमेव जयते



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
				and share of each party.
8.	19.08.2016	Mr. Rajesh Nair of OP-7 to Ms. Shanta Sohoni of OP-5	Mam, We will quote all-inclusive rate of Rs. 5,509.86 per set for NFR HPPA tender No. 30161001 due on 22/8/2016, in which JPPL & PPPL are equal ratio. Pl. confirm the same so that we can submit the BID. Thanks & Regards, Rajesh Nair	Mr. Rajesh Nair and Ms. Shanta Sohoni discuss about the prices to be quoted in North Western Railway tender that is to be equally distributed between OP-5 and OP-7.
	20.08.2016	Ms. Shanta Sohoni of OP-5 to OP-7	You are requested to quote Rs. 5,509.85 all inclusive. Polysset will quote Rs. 4,950.45 per pc. + ED @ 6% + CST @ 5% = Rs. 5,509.85 per set	
9.	06.09.2016	Ms. Rajesh Nair of OP-7 to Ms. Tarkeshwar Thakur of OP-3	Dear Sir, SCR Tender No. 30163695-C due on 9/9/2016 for 4876 sets allocated for BBC & JPPL equally. JPPL will quote all-inclusive of Rs. 2,755.49 per set (Basic + 6% + 5.5%) Kindly confirm the above all inclusive rate to upload the tender Thanks & Regards Rajesh Nair	Prices to be quoted in South Central Railway tender were discussed between OP-3 and OP-7. Then OP-3 informs Ms. Shanta Sohoni of OP-5 that due to OP-5's mistake of quoting low prices, OP-3 is also being asked to quote lower during negotiations. He stated that OP-7 is the joint allottee for the stated tender; therefore, he should also be informed of the action to be taken during negotiations called by the
	06.09.2016	Mr. Tarkeshwar Thakur of OP-3 to OP-7	Dear Sir, OK then you quote Rs. 2,755.49 per set all inclusive. We will quote rate with break up as below:- Basic – 2,475.73 + ED @ 6% + CST @ 5% (Rs. 2,755.49 all inclusive).	
	26.09.2016	Ms. Shanta Sohoni to Mr. Alok Somani of OP-1/ OP-3	This has reference to your SMS to Shri Bhupesh By mistake we have quoted Rate Rs. 2190/- per set + ED 6% + CST 5% and therefore we have accepted order for 1045 sets in Power Mould	
	26.09.2016	Mr. Alok Somani of OP-1/ OP-3 to Ms. Shanta Sohoni of OP-5	In future, do not allot us SCR tenders for kits. Because of your mistake, we are also being asked to also reduce the rates. Now please advise JPPL who were the joint allottees for this tender regarding action to be taken when SCR calls for negotiations.	
	26.09.2016	Ms. Shanta Sohoni of OP-5 to OP-7	Pl. reply.	
	26.09.2016	OP-7 to Ms. Shanta Sohoni of OP-5	Mam, As such we have not received any call for negotiation from SCR for this tender. In future, if	



सत्यमेव जयते



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			received we will inform you. Regards Rajeev Dudhani	Railways. Ms. Shanta Sohoni thus, informs OP-7 that as tender is to be shared between OP-7 and OP-3, OP-7 may discuss with OP-3 accordingly, however, it need not reduce prices.
	26.09.2016	Ms. Shanta Sohoni of OP-5 to OP-7	Pl. inform BBC because they are sharing this tender with you. Secondly, due to our mistake, you should not accept lower rate and you can show your S. Rly. Tender advance for getting your quoted rate. Pl. discuss with Mr. Somani for the same.	
10.	13.10.2016	Mr. Alok Somani of OP-1/ OP-3 to OP-7	Power Mold had quoted rate Rs. 2,190/- per set + ED 6% + CST 5% in one of earlier tenders of SC Rly. Therefore, SC Rly has called for negotiation against tender opened on 9.9.16. We would not be attending the negotiations and would be sending a letter to them offering them discount of Rs. 274/- on the basic rates. The quoted basic rate was Rs. 2,464/-. Thus, after giving the above discount, our basic rate would become Rs. 2,190/- per set. ED @ 6% and CST @ 5% would be extra. <u>Jai Polypan to please confirm that they would be also be quoting as above.</u>	OP-3 informs price that it will offer during negotiations to South Central Railway to OP-7 and seeks confirmation from for the same.
	13.10.2016	OP-7 to Mr. Alok Somani of OP-1/ OP-3	Okay. Agreed to send letter to SCR showing that our rate will be Rs. 2437.47 per set (inclusive of 6% ED & 5.5% Sales Tax) BBC rate will be Rs. 2190/ + 6% + 5% - 2437.47. it is correct sir,	
	13.10.2016	Mr. Alok Somani of OP-1/ OP-3 to OP-7	Yes, it is correct	
11.	25.10.2016	Mr. Rajesh Nair of OP-7 to Ms. Shanta Sohoni of OP-5	Mam, Pl. note that we will be quoting to WCR Tender due on 28/10/2016 Rs. 1,811.96 per set (all-inclusive i.e. basic + 6% + 5.5%) PPPL should quote basic 1,628 + 6% + 5% = 1,811.96 per set. Pl. confirm the above as PPPL & JPPL are equally allotted. Thanks & Regards, Rajesh Nair	OP-7 informs Ms. Shanta Sohoni of the rates to be quoted in Western Central Railway tender as tender had been allocated equally



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
	25.10.2016	Ms. Shanta Sohoni of OP-5 to OP-7	<i>o.k.</i>	under cartel arrangement.
12.	03.11.2016	Ms. Tarkeshwar Thakur of OP-3 to Ms. Shanta Sohoni of OP-5, OP-7, and Mr. Alok Somani of OP-1/ OP-3	<i>Subject: RE: Bush allotment OF sr DUE ON 4/11/16</i> <i>Attachments: SR tender enquiry for HPPA Collar Bush due on 04.11.15.pdf</i> <i>Dear Sir,</i> <i>We request you to please withdraw the allocation against S. Rly Tender No. 74160058 due on 04.11.16 as the tender is for only HPPA Collar Bush which is mentioned under Instructions/ Remarks</i>	OP-3 asks other parties to withdraw their allocation against Southern Railway tender.
13.	15.11.2016	Mr. Tarkeshwar Thakur of OP-3 to OP-7	<i>Dear Sir,</i> <i>Please note that NR tender due on 18.11.2016 for 350 sets of Brake Gear Bushes allotted to both BBC and JPPL with basic rate of Rs. 5,036/-.</i> <i>We are quoting basic rate of Rs. 5,036.00 + ED @ 6% + CST @ 5% (Rs. 5,605.07 all Incl.) in N Rly. tender due on 18.11.16. So JPPL to quote all-inclusive rate of Rs. 5,605.07. Please confirm the same.</i>	OP-3 informs rates to be quoted in Northern Railway tender allocated to OP-3 and OP-7.
14.	06.12.2016	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, Mr. Harsha Gumballi of OP-8, OP-7, OP-6, and Mr. R.K. Singh of OP-10	<i>E. Rly. Tender no. 11161074 due on 06/12/16 for 3334 sets</i> <i>This tender is allotted between BBC and CSL</i> <i>MFP (group of BBC) will quote Rs. 5,175/- per set + ED @ 6%+ CST @ 5% = Rs. 5,759.77 all inclusive</i> <i>CSL will quote Rs. 5,155/- per set + ED @ 6% + GST @5% = Rs. 737.51 all inclusive</i> <i>Non allottees should quote minimum 8% higher than PLR"</i>	Prices to be quoted by OP-3 and OP-6 and other OPs in Eastern Railway tender are fixed by Ms. Shanta Sohoni of OP-5. She also indicates the percentage by which the non-allottees should quote higher than PLR.
15.	21.12.2016	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, Mr. Harsha Gumballi of OP-8, OP-7, OP-6, and Mr. R.K. Singh of OP-10	<i>Subject: Bush allotment</i> <i>Attachments: Bush AC-1.xls</i> <i>New Allotment of N Rly. tenders due on 23/12/16</i>	Ms. Shanta Sohoni circulates allocation table allotting forthcoming Northern Railway tenders along with Price List Rates



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
				amongst the OPs.
16.	16.01.2017	Ms. Shanta Sohoni of OP-5 to Mr. Harsha Gumballi of OP-8, Mr. Tarkeshwar Thakur of OP-3, OP-6, OP-7, and Mr. R..K. Singh of OP-10	<i>Subject: New allotment of Bushes Attachments: Bush Ac-1.xls Tenders distributed between 3 firms should mutually discuss and quote the tenders. Non-allotees should quote minimum 8% higher than PLR</i>	Ms. Shanta Sohoni states that tenders are allocated between 03 entities and they should mutually discuss and quote. She also sends as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders.
17.	17.02.2017	Mr. Harsha Gumballi of OP-8 to Ms. Shanta Sohoni of OP-5	<i>Dear Sir/ Madam WE are not able to quote the RCF tender 2301160616 due on 23.2.17 allotted to us as it doesn't allow us to quote, same time we are also not able to quote in the W rly tender due on 22.2.17. We will ensure that RCF and W rly add our firm name in their future tenders so that we can quote. We request you to kindly change the allotment and allot us SCR tender due on 1.3.2017 allot them the RCF tender and oblige.</i>	OP-8 requests for allotment of different tender than those allotted but Ms. Shanta Sohoni declines the request made by OP-8.
	17.02.2017	Ms. Shanta Sohoni of OP-5 to Mr. Harsha Gumballi of OP-8	<i>Dear Sir, We have not allotted below mentioned both tenders to your a/c. RCF tender is allotted to Quadrant & W. Rly. tender is allotted to BBC. So, allotment will remain same.</i>	
18.	24.02.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, and OP-7	<i>Subject: Bush Ac-1.xls Attachments: Bush Ac-1.xls As requested by Jai Polypan, we have allotted entire quantity of WCR tender No. 30171157 due on 28/3/17 is allotted to BBC.</i>	Ms. Shanta Sohoni allocates entire quantity of West Central Railway



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<i>BBC should quote for entire tender quantity. Jai Polypan will quote higher rate in this tender and their shortfall will be adjusted in the next tender.</i>	tender to OP-3 on request of OP-7. She asks OP-7 to quote higher rate in the tender and their shortfall would be adjusted in next tender. Ms. Shanta Sohoni also sends as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share. Thereafter, Ms. Shanta Sohoni re-allocates West Central railway tenders to OP-6 as Eastern Railway tender allotted to OP-3 and OP-6 was finalised only in favour of OP-3 and OP-6 had received nothing. Hence, Ms. Shanta Sohoni requests OP-3 to quote higher in West Central Railway tender.
	24.03.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, OP-6, OP-7, and Mr. R..K. Singh of OP-10	<i>Pl. note that WCR tenders 30171156 & 30171157 due on 28/3/17 both tenders are allotted to CSL Non-allotties should quote minimum 8% higher than PLR</i>	
	24.03.2017	Ms. Shanta Sohoni of OP-5 to Mr. Harsha Gumballi of OP-8, Mr. Tarkeshwar Thakur of OP-3, OP-6, OP-7, and Mr. R..K. Singh of OP-10	<i>ER tender due on 6/12/16 was allotted between BBC and CSL. 3250 sets finalized in favour of BBC and bal. qty. dropped and CSL is not received any order. Hence, WCR tender No. 30171156 due on 28.3.17 has been allotted to CSL. BBC is requested to quote minimum 8% higher than PLR.</i>	



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
19.	01.04.2017	Ms. Shanta Sohoni of OP-5 to Mr. Harsha Gumballi of OP-8, Mr. Tarkeshwar Thakur of OP-3, OP-6, OP-7, and Mr. R..K. Singh of OP-10	<i>Subject: New Allotment of Bushes.</i> <i>Attachments: Bush AC-1.xls</i>	Ms. Shanta Sohoni sends as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share.
20.	02.05.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, and OP-7	<i>Subject: Bush AC-2.xls</i> <i>Attachments: Bush Ac-2.xls</i> <i>As per latest RDSO's Vendor Directory published on 18th April 2017, following firms are Approved Vendors</i> <i>1. M/s. Polyset Plastics Pvt. Ltd. (for HPPA)</i> <i>2. M/s. Power Mould (for HPPA)</i> <i>3. M/s. Jai Polypan Pvt. Ltd. (for HPPA)</i> <i>4. M/s. Black Burn & Co. Pvt. Ltd. (for SLPR)</i> <i>5. M/s. Moulded Fibreglass Products (for SLPR)</i> <i>Business share will be distributed between above 5 firms. Each firm will get 20% share</i> <i>Therefore PPPL 40%</i> <i>BBC: 40%</i> <i>JPPL:20%</i> <i>Tenders opened after 01/05/2017 is allotted accordingly.</i>	Ms. Shanta Sohoni provides list of approved vendors as on 18.04.2017 and provides business share for each firm. She sends as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share.
21.	03.06.2017	Ms. Shanta Sohoni of OP-5 to OP-3, OP-7, and OP-10	<i>Subject: Revised allotment of HPPA Bush</i> <i>Attachments: Bush Ac-2.xls</i> <i>Dear All,</i> <i>M/s. Quadrant Surlon got approval as "Approved Vendors"</i> <i>Therefore, we have worked out individual share including M/s. Quadrant and allotment of pending bushes has been revised.</i> <i>All are requested to quote the rates as per revised allotment.</i>	Ms. Shanta Sohoni notes that OP-10 has also received approval and therefore, provides revised Price List Rates, list of approved suppliers for



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
				HPPA Bushes and SLPR Bushes, and allocation of tenders and list of allocated share.
22.	13.06.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, OP-7, and Mr. R.K. Singh of OP-10	<p><i>Subject: Bush Allotment</i> <i>Attachments: Bush Ac-2.xls</i> <i>Our firm M/s. Anju Techno Industries is upgraded as "Approved Vendor" w.e.f. 12/06/2017.</i> <i>Now, total approved vendors are seven (7)</i> <i>Share for each firm has been revised and allotment for future tenders are done accordingly.</i> <i>We have done some changes in the earlier allotted tenders.</i> <i>All are requested to quote the tenders as per revised allotment</i></p>	Ms. Shanta Sohoni informs the OPs of addition of OP-4 as Part-I Vendor and provides as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share.
23.	19.06.2017	Mr. Alok Somani of OP-1/ OP-3 to Ms. Shanta Sohoni of OP-5, Mr. Tarkeshwar Thakur of OP-3, OP-6, Mr. Harsha Gumballi of OP-8, OP-7, and Mr. R.K. Singh of OP-10	<p><i>BBCPL's allocation in developmental sources should be for 2 firms</i> <i>a) Skylark as developmental source in PR bushes</i> <i>b) BBCPL as developmental source in HPPA bushes</i></p>	Mr. Alok Somani asks allotment as Part II vendors to be made for both OP-11 for SLPR Bushes and OP-3 for HPPA Bushes.
	19.06.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, OP-6, Mr. Harsha Gumballi of OP-8, OP-7, and Mr. R.K. Singh of OP-10	<p><i>Subject: Allotment of Brake gear bushes</i> <i>Attachments: Bush Ac-2.xls</i> <i>Dear All,</i> <i>It is decided that we will make allotment for Approved Vendors as well as Development Vendors.</i> <i>Account for Approved Vendor is worked out on the basis of 80% of the tender quantity and</i> <i>Account for Development Vendor is worked out on the basis of 20% of the tender quantity.</i></p>	Ms. Shanta Sohoni states that allotment would be made for both Part I and Part II Vendors and players who have not been allotted anything in a tender, would



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<i>Development Vender should quote 2.5% less than PLR for allotted firms Non-allotties should quote minimum 8% higher than PLR.</i>	quote minimum 8% higher than Price List Rate. She also provides as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share.
24.	21.06.2017	Mr. Harsha Gumballi of OP-8 to Ms. Shanta Sohoni of OP-5	<i>Dear All Have quoted in SWR tender due tomorrow according to the PLR</i>	Mr. Harsha Gumballi writes to Ms. Shanta Sohoni with CC to other OPs that though it had quoted in South Western Railway tender as per Price List Rate circulated, it did not get the tender which was given to OP-3 and OP-6 who quoted below their decided prices. Hence, allocation sheet be updated accordingly.
	27.06.2017	Mr. Harsha Gumballi of OP-8 to Ms. Shanta Sohoni of OP-5	<i>Subject: Re: Allotment of WSWR tender due 27/6/18 Attachments: SWR Brake Gear Bush Comparative statement 22.6.17.pdf Dear All, South Western Rly tender opened on 22.6.17 was allotted to us but was quoted less by Blackburn and Calstar. Please update the CPO accordingly.</i>	
	21.07.2017	Mr. Harsha Gumballi of OP-8 to Ms. Shanta Sohoni of OP-5	<i>Dear All We request you to kindly update the CPO as we are not LI in our allotted tender SWR 301 71250A opened on 22.6.17 We have not quoted in the other tender no 15160656 W Rly opened on 3.7.2017. Kindly do the needful.</i>	
25.	09.08.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<i>Dear Sir, For negotiation of HPPA Bushes of WR Tender No. 15160657 opened on 4/5/17, Mr. Bafna has spoken to Mr. Somani and decided that M/s Moulded Fibre will send letter giving revised rate of Rs. 1,970/- basic + GST @ 5% extra.</i>	Ms. Shanta Sohoni states that based on discussion between Mr. Bhupesh



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<i>M/s Power Mould will attend the meeting and giving the same revised rate.</i>	Bafna of OP-2/ OP-4/ OP-5 and Mr. Alok Somani of OP-1/ OP-3, OP-1 will quote revised rate and OP-2 will quote same rate in negotiations in respect of Western Railway tender.
26.	17.08.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<i>Dear Sir, It is difficult to finalise the tender when both companies rates are same and it is looking like cartel between both the firms. Therefore, it is decided that high value tenders will be divided 60:40 ratio. In the ECR tender we will quote Rs. 4,581/- + GST @ 5% = Rs. 4,810.05 per set all inclusive. You are requested to quote Rs. 4,590/- + GST @ 5% = Rs. 4,819.50 per set all inclusive. So, you will get counter offer of our rate for 40% quantity and easy to Rly. officer for finalisation of tender. Pl. confirm,</i>	Ms. Shanta Sohoni states that high value tenders would be split in 60:40 ratio as it was difficult to finalise tenders if both companies quote same price and it would indicate cartel between them. She also provides rates to be quoted by OP-3 and OP-5 in Eastern Central Railway tender for OP-5 to receive 40% quantity.
27.	04.12.2017	Ms. Shanta Sohoni of OP-5 to Mr. R.K. Singh of OP-10, and OP-7	<i>Subject: New Allotment of Brake gear Bushes Attachments: Bush Ac-2.xls Dear All, We are revising our Price List rates w.e.f. 01/12/2017. Therefore, all are requested to quote revised rates for tenders opening after 01/12/2017. Allotment is done with revised rates only.</i>	Ms. Shanta Sohoni revises price list rates w.e.f. 01.12.2017 and sends as attachment revised Price List Rates, list of approved



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation																
				suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share.																
28.	05.12.2017	Mr. Tarkeshwar Thakur of OP-3 to Ms. Shanta Sohoni of OP-5	<p>Dear Madam, Please find below status of ECoR Tender No. 03171811 opened on 18.08.17</p> <table border="1"> <thead> <tr> <th>S. No.</th> <th>Rly</th> <th>Tender No.</th> <th>Opened on</th> <th>Tender Qty</th> <th>Qty allotted</th> <th>PO recd. for Qty.</th> <th>Remarks</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>ECoR</td> <td>03171811</td> <td>18.08.17</td> <td>3361 sets</td> <td>1075 sets</td> <td>1042 sets</td> <td>1075 sets allotted to us but PO has been received by us for only 1042 Sets. Hence 33 sets should be considered as dropped & value should be reversed from our A/C. Please update the allocation sheet accordingly.</td> </tr> </tbody> </table> <p>Also please find attached herewith list of tenders allotted to us but POs have been placed on developmental vendor. Hence we request you to please consider these tenders as dropped & value should be reversed rom out A/C.</p>	S. No.	Rly	Tender No.	Opened on	Tender Qty	Qty allotted	PO recd. for Qty.	Remarks	1.	ECoR	03171811	18.08.17	3361 sets	1075 sets	1042 sets	1075 sets allotted to us but PO has been received by us for only 1042 Sets. Hence 33 sets should be considered as dropped & value should be reversed from our A/C. Please update the allocation sheet accordingly.	OP-3 requests dropping amount to reflect reduction in purchase order actually made; however, OP-5 refuses and states that if 100% order is placed on OP-3, full amount will be reflected in its account.
	S. No.	Rly	Tender No.	Opened on	Tender Qty	Qty allotted	PO recd. for Qty.	Remarks												
1.	ECoR	03171811	18.08.17	3361 sets	1075 sets	1042 sets	1075 sets allotted to us but PO has been received by us for only 1042 Sets. Hence 33 sets should be considered as dropped & value should be reversed from our A/C. Please update the allocation sheet accordingly.													
06.12.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<p>Dear Sir, We have updated your ECoR record. As per your statement, all these orders are finalized in favour of BBC i.e. your firm and where 100% order is placed on your firm, those tender will be taken in your account because your quoted rates are less than 15-20% lower than PLR and therefore, these tenders are not finalized on Approved supplier.</p>																		
29.	20.12.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, OP-7, and Mr. R.K. Singh of OP-10	<p>Dear All, Allotment for new tenders are enclosed. Single tenders allotted to BBC should quote in their Firm which is approved for "Approved vendor" and not in "Dev. Source". We are accounting 80% tender quantity and allotted to Approved Vendors Only. Therefore, tenders allotted to approved vendors should not under quote from their "Dev. Source firm" and grab the order.</p>	Ms. Shanta Sohoni makes allocation for new tenders. OP-3 makes it clear that it is now a Part I vendor and not Part II vendor. OP-7																



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
	21.12.2017	Mr. Alok Somani of OP-1/ OP-3 to Ms. Shanta Sohoni of OP-5	<p>Please note the following:-</p> <ol style="list-style-type: none"> 1. That we are not in the pool for developmental source and this has been our stance right from the beginning. 2. As you all know, we are offering much lesser rates from developmental source irrespective of whether the allocation for approved source is in our favour. 3. We do not pursue with railways to place order on developmental source bypassing higher offer of approved sources. <p>If despite not pursuing, railways offer full quantity on developmental source, we cannot help it.</p>	requests that Part II sources should also run in pool just like Part I sources effective from 01.01.2018.
	22.12.2017	OP-7 to Mr. Alok Somani of OP-1/ OP-3, and Ms. Shanta Sohoni of OP-5	<p>Dear Sir,</p> <p>Only 3 firms are in development source. Pl. make pool in dev. source also to avoid any disturbance in getting orders of approved vendors. Otherwise, no meaning to run approved sources pool.</p> <p>4. Our humble request is that all the dev. source should run under pool with effect from 1st January 2018.</p>	
30.	28.12.2017	Mr. Tarkeshwar Thakur of OP-3 to Ms. Shanta Sohoni of OP-5	<p>Dear Madam,</p> <p>We have a huge shortfall in the accounting period 1.6.16 to 28.11.16. Details are attached. Please incorporate the same in the accounts and make future allocations accordingly.</p>	OP-3 requests Ms. Shanta Sohoni to make future allocations to it in view of the fact that it had huge shortfall in accounting period 01.06.2016 to 28.11.2016. Ms. Shanta Sohoni however, refuses.
	29.12.2017	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<p>Dear Sir,</p> <p>Now, we have accounted tenders w.e.f. 01/05/2017 and therefore we cannot update earlier tender position in this statement.</p>	
31.	15.01.2018	Mr. Tarkeshwar Thakur of OP-3 to Mr. Alok Somani of OP-1/ OP-3	<p>Sir,</p> <p>NER Tender No. 22160770A due on 19.01.2018 for 8335 Sets of Brake Gear Bushes is allotted to both PPPL (60% of 80% qty) & BBC (40% of 80% qty) @ Rs. 2,714. 00 per set basic.</p> <p>Please advise what rate both of us to quote.</p>	OP-3 asks OP-5 to tell the rate to be quoted in North Eastern Railway tender. Ms. Shanta Sohoni replies



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
	15.01.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur and Mr. Alok Somani of OP-3	Dear Sir, Polyset will quote Rs. 2,714/- per set + GST @ 5% = Total Rs. 2,849.70 per set all incl. BBC will quote Rs. 2,725/- per set + GST @ 5% = Total Rs. 2,861.25 per set all incl. Pl. confirm the same	with the rates to be quoted.
32.	21.04.2018	Mr. Rajeev Dudhani of OP-7 to Ms. Shanta Sohoni of OP-5, Mr. Tarkeshwar Thakur of OP-3, and Mr. R.K. Singh of OP-10	Mam, We are not interested in NFR (Dibrugarh) (due on 24/4/18) tender. Pl. allot other firm and remove this amount from our account. Best regards Rajeev Dudhani	Mr. Rajeev Dudhani of OP-7 states that OP-7 is not interested in North Western Railway tender allocated to it. But Ms. Shanta Sohoni states that due to shortfall, this tender was allocated to it and there are no choices.
	21.04.2018	Ms. Shanta Sohoni of OP-5 to OP-7, Mr. Tarkeshwar Thakur of OP-3, and Mr. R.K. Singh of OP-10	Dear Sir, Due to shortfall this Tender is allotted to you. There is no choice, but to request you to quote for this tender	
33.	24.04.2018	Mr. Tarkeshwar Thakur of OP-3 to Mr. Alok Somani of OP-1/ OP-3	Sir, E. Rly. Tender No. 11171082A due on 01.05.2018 for 3013 Sets of Brake Gear Bushes is allotted to both BBC (60% of 80% qty) & PPPL (40% of 80% qty) @ Rs. 5,429.00 per set basic. Please advise what rate BBC & PPPL should quote. This is re-tender. In earlier tender opened on 20.12.17, BBC had quoted Rs. 5,329.00 per set basic.	OP-3 writes to Ms. Shanta Sohoni that Eastern Railway tender is allocated between itself and OP-5 and so what rates should be quoted. Ms. Shanta Sohoni provides rates to be quoted.
	24.04.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	Sir, E. Rly. Tender No. 11171082A due on 01.05.2018 for 3013 Sets of Brake Gear Bushes. BBC will quote Rs. 5,429/-per set + GST @5% = Total Rs. 5,700.45 PPPL will quote Rs. 5,445/- per set + GST @5% = Total Rs. 5717.25	
34.	07.06.2018	Mr. Tarkeshwar Thakur of OP-3 to Ms. Shanta Sohoni of OP-5, OP-7, and Mr. R.K. Singh of OP-10	Dear Madam, NR tender due on 08.06.18 for 750 sets is floated by AMV/ LKO and would not be split 60/40. Therefore, we request for change in allocation either 80% in our favor or 80% in favor of Quadrant.	OP-3 requests Ms. Shanta Sohoni for changes in allocation of Northern Railway tender between itself and OP-10. Ms.
	07.06.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, and	BBC is requested to quote higher rate in NR-AMV tender. We will account this tender in Quadrant account.	



सत्यमेव जयते

Fair Competition
For Greater Good

S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
		Mr. R.K. Singh of OP-10		Shanta Sohoni obliges.
35.	20.06.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	CR Tender No. 38182236 due on 02-07-18 is allotted between PPPL and BBC PPPL will quote Rs. 2,952/- + GST @5% = Rs. 3,099.60 per set (all incl.) BBC will quote Rs. 2,962/- + GST @5% = Rs. 3,110.10 per set (all incl.) Pl. confirm	Ms. Shanta Sohoni provides rates to be quoted by OP-5 and OP-3 in Central Railways tender.
36.	11.07.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	NFR tender 30181001 due on 16/07/2018 is allotted between BBC and PPPL BBC will quote Rs. 5,774/- + GST @5% = Rs. 6,062.70 per set (all incl.) PPPL will quote Rs. 5,765/- + GST @5% = Rs. 6,053.25 per set (all incl.) Pl. confirm	Ms. Shanta Sohoni provides rates to be quoted by OP-3 and OP-5 in North-East Frontier Railway tender.
	11.07.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	Revised BBC will quote Rs. 5,774/- + GST @5% = Rs. 6,062.70 per set (all incl.) PPPL will quote Rs. 5,783.50 + GST @5% = Rs. 6,072.67 per set (all incl.) Pl. confirm	
37.	01.09.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	Dear Sir, NWR Tender No. 30182151D due on 04-09-18 for 2549 sets allotted between PPPL and BBC Polysset will quote Rs. 6,057/- + GST @5% = Rs. 6,359.85 per set (all inclusive) BBC will quote Rs. 6,075/- + GST @5% = Rs. 6,378.75 per set (all inclusive) Pl. confirm the same	Ms. Shanta Sohoni provides rates to be quoted by OP-3 and OP-5 in North Western Railway tender.
38.	30.11.2018	Mr. Tarkeshwar Thakur of OP-3 to Mr. Alok Somani of OP-1/ OP-3	Sir, W. Rly. Tender No. 15180683 due on 06.12.2018 for 2,52,148 Nos. Brake Gear Bushes (Item-3) is allotted to both PPPL (60% of 80% qty) & BBC (40% of 80% I qty) @ Rs. 33.50 per no. basic. Please advise what rate BBC should quote in this tender.	OP-3 seeks advice from Ms. Shanta Sohoni on price to be quoted in Western Railway tender allocated between OP-3 and OP-5. Ms. Shanta Sohoni provides prices to be quoted.
	30.11.2018	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur and Mr. Alok Somani of OP-3	Dear Sir, Polysset will quote Rs. 33.50 per pc. + GST @ 5% and BBC will quote 33.60 per pc. + GST @ 5% Pl. confirm	



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
39.	04.01.2019	Mr. Tarkeshwar Thakur of OP-3 to OP-7	Dear Sir, SER Tender No. 30181434A due on 07.01.2019 for 2013 Sets of Brake Gear Bushes is allotted to both BBC (60% of 80% qty) & JPPL (40% of 80% qty) @ Rs. 6,058.00 per set basic So in this tender, we will quote list price i.e. Rs. 6,058. 00 per set basic. You are advised to quote Rs. 6,065.00 per set basic. Please confirm.	OP-3 advises OP-7 the rate quotation for South Eastern Railway tender, which OP-7 agrees to.
	04.01.2019	OP-7 to Mr. Tarkeshwar Thakur of OP-3	Dear Sir, OK agreed. We will quote R& 6065 per set basic + GST as suggested by you.	
40.	08.01.2019	Ms. Shanta Sohoni of OP-5 to Mr. R.K. Singh of OP-10, Mr. Ram Chandra of OP-6, Mr. Tarkeshwar Thakur of OP-3, and OP-7	Subject: New allotment of Bushes Attachments: Bush Ac-2.xls	Ms. Shanta Sohoni sends as attachment revised Price List Rates, list of approved suppliers for HPPA Bushes and SLPR Bushes, and allocation of tenders and share.
41.	27.02.2019	Ms. Shanta Sohoni of OP-5 to OP-6, Mr. Tarkeshwar Thakur of OP-3, Mr. R.K. Singh of OP-10, and OP-7	Dear All, Calstar Steel Ltd. got approval as Approved source w.e.f. 01/03/2019 Accordingly there are now 8 approved supplier and share has been revised. We have made allotment accordingly. Non-allottees should quote minimum 8 higher than PLR Non-allottees should quote minimum 8-10% higher than PLR	Ms. Shanta Sohoni states that as OP-6 is now also Part-I Vendor, so shares are re-allocated accordingly. However, Mr. Luv Kumar of OP-10 and Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 want higher prices for compensating lesser allocated share.
	27.02.2019	Mr. Luv Kumar of OP-10 to Ms. Shanta Sohoni of OP-5, OP-6, Mr. Tarkeshwar Thakur of OP-3, Mr. R.K. Singh of OP-10, and OP-7	Please increase prices in order to compensate	
	27.02.2019	Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 to Mr. Luv Kumar and Mr.	I am in agreement with Luv Kumar	



सत्यमेव जयते



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
		R.K. Singh of OP-10, Ms. Shanta Sohoni of OP-5, OP-6, Mr. Tarkeshwar Thakur of OP-3, and OP-7		
42.	02.03.2019	Mr. Vikas Aggarwal of OP-6 to Ms. Shanta Sohoni of OP-5	<p>Dear Sir,</p> <p>We would like to bring to attention of all that we have presently agreed to give supporting quotation up to 20-03-2019 till an all-party meeting is called and all pending issues are decided.</p> <p>We shall request the administrator to call for a meeting at the earliest possible.</p> <p>Regards,</p> <p>VA(CSL)</p>	OP-6 states that it would provide supporting quotations until 20.03.2019 till all-party meeting is called.
43.	18.03.2019	Mr. Rajeev Dudhani of OP-7 to Ms. Shanta Sohoni of OP-5, Mr. Tarkeshwar Thakur of OP-3, OP-6, and Mr. R.K. Singh of OP-10	<p>Dear all,</p> <p>Pl. note that NWR-JU tender retendered on 25/03/2019.</p> <p>Kindly revise the allocation of this tender to us.</p> <p>Regards</p> <p>Rajeev Dudhani</p>	OP-7 requests allocation of North Western Railway tender to it as it has been re-tendered.
44.	26.03.2019	Mr. Rajeev Dudhani of OP-7 to Ms. Shanta Sohoni of OP-5, Mr. Tarkeshwar Thakur of OP-3, Mr. R.K. Singh of OP-10, and OP-6	<p>Dear All,</p> <p>As you all are aware that Calstar was got approval of Approved Vendor on 07/01/2019 and they are getting orders of ER & SER tenders opened on 07/01/2019</p> <p>So kindly re-check the accounts and issue excess & shortages.</p> <p>We are in a loss of around 2.5 crores during 2018-2019 F. Y.</p> <p>How we can full fill our losses.</p> <p>We request your valued comments in this matter</p> <p>Best Regards</p> <p>Rajeev Dudhani</p>	OP-7 states that as OP-6 has become approved vendor, re-checking of excess and shortages is required as OP-7 has suffered losses. He also states that OP-6 underquoted in Western Railway tender.
	05.04.2019	Mr. Rajeev Dudhani of OP-7 to Ms. Shanta Sohoni of OP-5, Mr. Tarkeshwar Thakur of OP-3, Mr.	<p>Subject: Re: Allotment of new tenders</p> <p>Attachments: comparative of L-para HPPA tender.pdf</p> <p>Dear All,</p> <p>Pl. see comparative statement of today's HPPA tender. It was allocated to JPPL. But</p>	



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
		R.K. Singh of OP-10, and OP-6	<p><i>Calstar underquoted.</i></p> <p><i>How we can run adjustment between all firm. We are in loss of 2.75 crores in this adjustment of business.</i></p> <p><i>You all are requested to comment on this matter.</i></p> <p><i>Regards</i></p> <p><i>Rajeev Dudhani</i></p>	
45.	08.04.2019	Mr. Rajesh Nair of OP-7 to Mr. Tarkeshwar Thakur of OP-3	<p><i>Dear Sir,</i></p> <p><i>JFPL & BBC are allotted NWR tender due on 10/04/2019 (60%+40%)</i></p> <p><i>JFPL will quote PLR (i.e. 6,058/- Basic + 5% GST)</i></p> <p><i>BBC will quote Rs. 6,067/- Basic + 5% GST</i></p> <p><i>Kindly confirm the above rate immediately</i></p> <p><i>Thanks & Regards</i></p> <p><i>Rajesh Nair</i></p>	<p>OP-7 provides rates to be quoted by itself and OP-3 for North Western Railway tender.</p> <p>However, as tender date got extended, Ms. Shanta Sohoni changed allocation for the tender. She sends as attachment revised Price List Rates, and allocation of tenders and share.</p>
	12.04.2019	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, OP-6, Mr. R.K. Singh of OP-10, and OP-7	<p><i>Subject: Bush Allotment</i></p> <p><i>Attachments: Bush Ac-3.xls</i></p> <p><i>Due date for NWR tender is postponed to 19/04/2019</i></p> <p><i>Allocation for NWR tender is changed.</i></p> <p><i>All are requested to quote strictly as per allocation.</i></p> <p><i>Non-allottees should quote minimum 8-10% higher than PLR</i></p>	
46.	28.05.2019	Mr. Rajeev Dudhani of OP-7 to Ms. Shanta Sohoni of OP-5, Mr. Tarkeshwar Thakur of OP-3, OP-6, and Mr. R.K. Singh of OP-10	<p><i>Mam,</i></p> <p><i>Please note that as per information received from NER for tender No. 10191100 opened on 11/03/2019 has cancelled due to quantity received to consignee against earlier tender/order.</i></p> <p><i>Kindly remove this amount from our account.</i></p> <p><i>Pl. update the account</i></p> <p><i>Regards</i></p> <p><i>Rajeev Dudhani</i></p>	<p>OP-7 informs that as one North Eastern Railway tender allocated to it has been cancelled, same be removed from its account.</p>
47.	25.07.2019	Ms. Shanta Sohoni of OP-5 to Mr. R.K. Singh of OP-10, Mr. Ram	<p><i>Subject: Bush allotment</i></p> <p><i>Attachments: Bush AC-3.xls</i></p> <p><i>Dear All,</i></p>	<p>Ms. Shanta Sohoni sends as attachment, revised Price</p>



सत्यमेव जयते



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation																		
		Chandra of OP-6, Mr. Tarkeshwar Thakur of OP-3, and OP-7	<i>We have made some changes in the earlier allotment. All are requested to quote the tenders as per revised allotment</i>	List Rates, and allocation of tenders and share.																		
48.	03.08.2019	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<i>N. Rly. tender No. 07191 774 due on 08-08-2019 for 6526 sets of Brake gear bushes This tender is allotted between PPPL and BBC PPPL will quote Rs. 6,192/- per set + GST @5% = Rs. 6,501.60 per set (all incl.) BBC will quote Rs. 6,205/- per set + GST @5% = Rs. 6,515.25 per set (all incl.) Pl. confirm the same</i>	Ms. Shanta Sohoni provides rates to be quoted in Northern Railway tender allocated between OP-3 and OP-5.																		
49.	08.08.2019	Ms. Shanta Sohoni of OP-5 to OP-7	<i>Attn: Shri Rajiv Dudhani/ Shri Rajesh Nair As per allocation, this tender was allotted between Polyset and Black Burn. How Jai Polypan has quoted lower rate i.e. 5-6% lower than PLR. You are requested to withdraw your offer immediately under intimation to us Otherwise it will be difficult to run the pool.</i>	OP-5 asks OP-7 as to how has it underquoted in Northern Railway tender and requests it to withdraw its offer.																		
	08.08.2019	Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 to OP-7	<i>Dear Vishalbhair Whatever be the reason for underquoting, we request you to withdraw your offer immediately otherwise the pool may break.</i>																			
50.	13.08.2019	Ms. Shanta Sohoni of OP-5 to Mr. R.K. Singh of OP-10, Mr. Ram Chandra of OP-6, Mr. Tarkeshwar Thakur of OP-3, and OP-7	<i>Subject: New allotment of Bushes Attachments: Bush Ac-3.xls Dear all, Pl. do not break the PLR and underquote any of the tender which is not allotted to you Feel free for discussion of any tender allotment. We will try to update your suggestions if possible. Non-allottees should quote strictly 8-10% higher than PLR. Regards</i>	Ms. Shanta Sohoni asks the OPs to not break Price List Rate or underquote. Further, as attachment, she sends revised Price List Rates and allocation of tenders and share.																		
51.	03.10.2019	Mr. Ram Chandra of OP-6 to Ms. Shanta Sohoni of OP-5	<i>Dear All, We shall be quoting the following rates in N.F. Railway Tender No. 30190409 Due on 09-10-2019 Qty – 8291 Nos.</i> <table border="1"> <thead> <tr> <th>Consignee</th> <th>QTY</th> <th>Basic Rate</th> <th>Freight</th> <th>GST</th> <th>All-inclusive rate</th> </tr> </thead> <tbody> <tr> <td>DBRT Workshop</td> <td>709 Nos.</td> <td>90/-</td> <td>30/-</td> <td>12%</td> <td>134.40</td> </tr> <tr> <td>KIR GSD</td> <td>196 Nos.</td> <td>90/-</td> <td>50/-</td> <td>12%</td> <td>156.80</td> </tr> </tbody> </table>	Consignee	QTY	Basic Rate	Freight	GST	All-inclusive rate	DBRT Workshop	709 Nos.	90/-	30/-	12%	134.40	KIR GSD	196 Nos.	90/-	50/-	12%	156.80	OP-6 provides to Ms. Shanta Sohoni, the rates OP-6 would quote in North Frontier Railway tender
Consignee	QTY	Basic Rate	Freight	GST	All-inclusive rate																	
DBRT Workshop	709 Nos.	90/-	30/-	12%	134.40																	
KIR GSD	196 Nos.	90/-	50/-	12%	156.80																	



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation						
			<p><i>NBQ Workshop 802 Nos. 90 25/- 12% 128.00</i> <i>PNO GSD 6584 Nos. 90/- 10/- 12% 112.00</i></p> <p><i>All non-allottees are requested to quote 8-10% higher.</i></p>							
52.	05.09.2019	Mr. Tarkeshwar Thakur of OP-3 to Mr. R.K. Singh of OP-10	<p><i>Dear Sir,</i> <i>ER Tender No. 11191074 due on 09.09.19 for 5016 Sets of Brake Gear Bushes is allotted to both BBC (60% of 80% qty.) & Quadrant (40% of 80% qty) @ Rs. 6,058.00 per set basic</i> <i>So in this tender, we will quote list price i.e. Rs. 6,058.00 per set basic</i> <i>You are advised to quote Rs. 6,075. 00 per set basic</i> <i>Please confirm</i></p>	<p>OP-3 provides rates to be quoted in Eastern Railway tender allocated to OP-3 and OP-10, to OP-10.</p> <p>Ms. Shanta Sohoni states that OP-8 has agreed to quote higher in this tender. OP-10 thereafter asks OP-3 as to why did it underquote than rates agreed.</p>						
	05.09.2019	Mr. R.K. Singh of OP-10 to Mr. Tarkeshwar Thakur of OP-3	<p><i>OK</i></p>							
	09.09.2019	Ms. Shanta Sohoni of OP-5 to Mr. R.K. Singh of OP-10 and Mr. Tarkeshwar Thakur of OP-3	<p><i>We have discussed with Polymer Products and they have agreed that they will quote 8% higher than PLR (PLR Rs. 6,058/- + GST @5%)</i> <i>You both are requested to quote PLR and do not reduce the price</i></p> <table border="1"> <tr> <td>ER</td> <td>11191074</td> <td>09/09/2019</td> <td>Kit for HPPA Brake gear bushes for 4 items as per RDSO SK-81039 Alt. 15. Item No. 2 = 120 nos., Item No. 3 = 52 nos., Item No. 7 = 32 Nos., Item No. 11 = 8 Nos.</td> <td>5016 sets</td> <td>6058/-</td> </tr> </table>		ER	11191074	09/09/2019	Kit for HPPA Brake gear bushes for 4 items as per RDSO SK-81039 Alt. 15. Item No. 2 = 120 nos., Item No. 3 = 52 nos., Item No. 7 = 32 Nos., Item No. 11 = 8 Nos.	5016 sets	6058/-
	ER	11191074	09/09/2019		Kit for HPPA Brake gear bushes for 4 items as per RDSO SK-81039 Alt. 15. Item No. 2 = 120 nos., Item No. 3 = 52 nos., Item No. 7 = 32 Nos., Item No. 11 = 8 Nos.	5016 sets	6058/-			
09.09.2019	Mr. R.K. Singh of OP-10 to Mr. Tarkeshwar Thakur of OP-3	<p><i>Subject: Re: ER Tender No. 11191074 due on 09.09.19 for 5016 Sets of Brake Gear Bushes</i> <i>Attachments: Eastern Railway – HPPA Bush (09.09.19).pdf</i> <i>Dear Mr. Thakur,</i> <i>Can you please let us know why you have under quoted in ER tender from the rates as agreed below</i></p>								
53.	11.09.2019	Ms. Shanta Sohoni of OP-5 to Mr. Ram Chandra of OP-6, Mr. R.K. Singh of OP-10, Mr. Tarkeshwar Thakur of OP-3, Mr. Harsha Gumballi of OP-8, and OP-7	<p><i>Attachments: MOM.pdf; Bush Ac-4.xls</i> <i>Minutes of Meeting</i> <i>Meeting was held at Mumbai on 10/09/2019.</i> <i>Members were present:</i> <i>1. Shri Bhupesh Bafna: M/s. Polyset Plastics Pvt. Ltd.</i> <i>2. Shri Vishal Baid: M/s. Jai Polypan Pvt. Ltd.</i> <i>3. Shri Alok Somani: M/s. Black Burn & Co. Pvt. Ltd.</i> <i>4. Shri R. K. Singh: M/s. Quadrant EPC Surlon India Ltd.</i></p>	<p>Ms. Shanta Sohoni circulates Minutes of Meeting held on 10.09.2019 at Mumbai, in which discussions pertaining to approved</p>						



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<p><i>Following points agreed:</i></p> <ol style="list-style-type: none"> <i>M/s. Calstar Steel Ltd got approval as "Approved Vender" for supply of HPPA Brake gear bushes w.e.f. 07/01/2019. Hence orders for CSL will be accounted for tender opened on and after 07/01/2019. Accordingly statement will be circulated and close the account up to 22/08/2019 (Bush Ac-3)</i> <i>M/s. Polymer Products of India got approval as "Approved Vendor" for supply of HPPA Brake gear bushes w.e.f. 23/08/2019. Therefore, New account generated with earlier excess/shortage including Polymer Products in the pool. Tender opened on and after 23/08/2019 where Polymer is L1 will be accounted. (Bush Ac 4)</i> <i>PLR will be increased @ 5% w.e.f. 11th September 2019.</i> <i>Now M/s. Moulded Fibre Glass Products is only the firm under "Dev Source". Shri Somani is agreed that henceforth, they will quote approx. 5% less than PLR in M/s. Moulded Fibre.</i> <p><i>Further, if 100% P0 awarded to "Dev. Source", same will be accounted in the pool.</i></p>	<p>vendors and rates to be revised were provided. Further, she sends as revised Price List Rates, and allocation of tenders and share. OP-6 replies apologising for not being able to attend meeting and states that after upgradation of OP-8, distribution which was already disproportionate, has become even more skewed.</p>
	12.09.2019	<p>Mr. Ram Chandra of OP-6 to Ms. Shanta Sohoni of OP-5</p> <p><i>Dear Sir,</i> <i>We are sorry for not being able to cone to the meeting.</i> <i>We find that the distribution which was already disproportionate has become even more skewed with the up gradation of Polymer Products, and we are not getting a fair share. So in all fairness both Pt-II and Pt-I quantity should be taken into account for calculation of individual share.</i></p>		
54.	18.09.2019	<p>Ms. Shanta Sohoni of OP-5 to Mr. R.K. Singh of OP-10</p> <p><i>Dear Sir,</i> <i>C. Rly. tender No. 38192236 opened on 17/09/2019 was allotted between Polysset and Calstar</i> <i>But your firm has quoted lower rate. Pl. explain why?</i> <i>If we have to run the pool, such mistakes are not acceptable.</i> <i>You are requested to withdraw your offer immediately and send withdrawal letter copy in the pool for confirmation</i></p>	<p>Ms. Shanta Sohoni seeks explanation from OP-10 for quoting lower rate in Central Railway tender and asks it to withdraw. Mr. R.K. Singh of OP-10 withdraws from tender.</p>	
	19.09.2019	<p>Mr. R.K. Singh of OP-10 to Ms. Shanta Sohoni of OP-5</p> <p><i>Subject: Re: C. Rly. Tender No. 38192236 due 17-09-19</i> <i>Attachment: CR-CSTM.pdf</i> <i>Please find herewith attached our request submitted to Central Railway for withdrawal of</i></p>		



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			our offer for the below said tender. This is for your kind information please	
55.	19.09.2019	WhatsApp chats between Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 and Mr. Alok Somani of OP-1/ OP-3	Bhupesh Bafna: Sir, we both need to agree on some changes in the distribution % of FIPPA share of business otherwise this business will become non profitable & then will be very difficult to revive. So its my request to you to agree with what I'm proposing. Alok Somani: What r u proposing? Bhupesh Bafna: Sending you in a few minutes Bhupesh Bafna: Polyset Group-25%, Blackburn group-25% (including both Pt-I & Pt-II share), Other 4 - 12.5% each Alok Somani: Better to call a meeting again Bhupesh Bafna: I have spoken to all. They are not inclined to continue the.. Its only the ratio issue otherwise everything is going fine. I personally believe that the pool & prices will break if we both don't agree with the above formula	Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 proposes revision of share from what has been earlier decided in meeting.
	21.09.2019		Alok Somani: As per Mumbai meeting our percentage share worked out to 37.8% including provisionally approved firm. PPL's share worked out to 26.7%. While you are willing to let go 1.7% of your share you want us to forego 12.8%. Is that logical? You need to rethink Bhupesh	
	26.09.2019		Bhupesh Bafna: If we do proper detailed calculation then the breakup should be BBC 29%, PPPL 21%, Calstar 12.50%, JPPL 12.50%, Polymer 12.50%, Quadrant 12.50%, Total 100% If this is agreeable to you then I will put it up on HPPA group	
56.	30.09.2019	Mr. Tarkeshwar Thakur of OP-3 to Ms. Shanta Sohoni of OP-5, OP-7, Mr. Ram Chandra of OP-6, Mr. Harsha Gumballi of OP-8, and Mr. R.K. Singh of OP-10	SECR Tender No. 03182030A due on 01.10.19 is allotted to BBC @ Rs. 35.25 basic. Since GST rate of HPPA Bushes has been increased from 5% to 12% w.e.f. 01.10.19, we will quote Rs. 35.25 + GST @12% (Rs. 39.48 all incl.) All are requested to quote their rates accordingly	OP-3 informs other parties that South-East Central Railway tender has been allocated to it so all other parties should quote accordingly.



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
57.	30.09.2019	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<i>As per latest discussion, pool will work out on 100% tender value w.e.f. 01/10/2019 You are requested to quote higher rate in NR tender due 01/10/2019 in part II firm Other tender allocation will be sending by evening</i>	Ms. Shanta Sohoni asks OP-3 to quote higher rate in Northern Railway tender as Part II firm
58.	30.09.2019	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, Mr. Ram Chandra of OP-6, Mr. R.K. Singh of OP-10, Mr. Harsha Gumballi of OP-8, and OP-7	<i>Subject: Bush Allotment Attachments: Bush Ac-5.xls; Bush AC-4.xls Dear All, As per discussion had with group members, working will be done on 100% tender value. Ratio for all members are as under w.e.f. 01/10/2019. Polysset: 21%, BBC: 29%, JPPL: 12.5%, Quadrant: 12.5%, CSL: 12.5%, Polymer: 12.5% Total: 100% Allotment w.e.f. 01/10/2019 is done on the basis of above ratio. Due to withdrawal of Quadrant's offer against CR tender opened on 17/09/2019 and discussion had with Dy. CMM, CR, this tender will be retendered in October 19 therefore, we have not accounted this tender in the statement. All are requested to quote as per allocation with new PLR Non-allotties should quote minimum 8-10% higher than PLR. "AS PER PRESS RELEASE ISSUED BY GST COUNCIL, MINISTRY OF FINANCE, GST RATE @ 12% WILL BE APPLICABLE FOR CHAPTER 86 OF WAGON, COACHES AND ROLLING STOCK ITEMS W.E.F. 01/10/2019" All are requested to quote GST @ 12% for bush tenders.</i>	Ms. Shanta Sohoni provides to parties their ratio of allocation w.e.f. 01.10.2019 and asks parties to quote as per Price List Rates. She also requests parties to quote GST @ 12%. Further, as attachment, she sends revised Price List Rates and allocation of tenders and revised share.
59.	30.09.2019	Ms. Shanta Sohoni of OP-5 to Mr. Ram Chandra of OP-6, Mr. R.K. Singh of OP-10, Mr. Harsha Gumballi of OP-8, Mr. Tarkeshwar Thakur of OP-3, and OP-7	<i>Subject: Bush Ac-5.xls Attachments: Bush Ac-5.xls ER tender No. 11191686 due on 04/10/2019 quantity is in 2135 sets (32 Nos. in one set) and PL rate is Rs. 1,128/- per set + GST @5%. All are requested to quote the rate in per set and quote 8% to 10% higher than PLR.</i>	Ms. Shanta Sohoni asks OPs to quote decided rates in Eastern Railway tender. She also sends as attachment, revised Price List Rates, and allocation



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation																														
				of tenders and share.																														
60.	03.10.2019	Mr. Ram Chandra of OP-6 to Ms. Shanta Sohoni of OP-5	<p>Subject: N.F. Railway Tender No. 30190409 due on 09-10-19 for Mfg. & Supply of Brake Gear Bush to RDSO Drg. No. SKETCH-81039, Item -7</p> <p>Dear All,</p> <p>We shall be quoting the following rates in N.F. Railway Tender No. 30190409 due on 09-10-2019 Qty- 8291 Nos.</p> <table border="1"> <thead> <tr> <th>Consignee</th> <th>QTY</th> <th>Basic rate</th> <th>Freight</th> <th>GST</th> <th>All-inclusive rate</th> </tr> </thead> <tbody> <tr> <td>DBRT Workshop</td> <td>709 No</td> <td>90/-</td> <td>30/-</td> <td>12%</td> <td>134.40</td> </tr> <tr> <td>KIRGSD</td> <td>196 Nos.</td> <td>90/-</td> <td>50/-</td> <td>12%</td> <td>156.80</td> </tr> <tr> <td>NBQ Workshop</td> <td>802 Nos.</td> <td>90/-</td> <td>25/-</td> <td>12%</td> <td>128.00</td> </tr> <tr> <td>PNO GSD</td> <td>6584 Nos.</td> <td>90/-</td> <td>10/-</td> <td>12%</td> <td>112.00</td> </tr> </tbody> </table> <p>All non-allottees are requested to quote 8-10% higher.</p>	Consignee	QTY	Basic rate	Freight	GST	All-inclusive rate	DBRT Workshop	709 No	90/-	30/-	12%	134.40	KIRGSD	196 Nos.	90/-	50/-	12%	156.80	NBQ Workshop	802 Nos.	90/-	25/-	12%	128.00	PNO GSD	6584 Nos.	90/-	10/-	12%	112.00	OP-6 provides rates to be quoted for North-East Frontier Railway tender.
Consignee	QTY	Basic rate	Freight	GST	All-inclusive rate																													
DBRT Workshop	709 No	90/-	30/-	12%	134.40																													
KIRGSD	196 Nos.	90/-	50/-	12%	156.80																													
NBQ Workshop	802 Nos.	90/-	25/-	12%	128.00																													
PNO GSD	6584 Nos.	90/-	10/-	12%	112.00																													
61.	04.10.2019	Sent by Ms. Shanta Sohoni of OP-5 to OP-8	<p>Dear Sir,</p> <p>We have clearly mentioned in the email dt. 30/09/2019 that PL rate for ER tender No. 11191686 due on 04/10/2019 quantity is in 2135 sets is Rs. 1,128/- + GST 5%</p> <p>As per tabulation statement, you have quoted this tender today morning at 10.28 am and quoted for single pc. Rate and tender is for set of 32 pcs.</p> <p>You are requested to withdraw your offer immediately i.e. today with copy to be sent in the pool.</p>	Ms. Shanta Sohoni informs that OP-8 has misquoted in Eastern Railway tender and asks it to withdraw. OP-8 agrees.																														
	04.10.2019	Mr. Harsha Gumballi of OP-8 to Mr. Vikas Agarwal and Mr. Ram Chandra of OP-6, Mr. Tarkeshwar Thakur and Mr. Alok Somani of OP-3, Mr. R.K. Singh of OP-10, Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5, and Mr. Vishal Baid and Mr.	<p>Subject: Re: FW: Bush Ac-5.xls</p> <p>Attachments: E Rly BGB offer withdrawal.PDF</p> <p>Dear Sir/ Madam,</p> <p>Please find enclosed withdrawal letter.</p> <p>We will submit the same at the earliest.</p>																															



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
		Venkat of OP-8		
62.	11.11.2019	Mr. Tarkeshwar Thakur of OP-3 to OP-7	<p>Dear Sir, SR Tender No. 04190921A due on 15.11.2019 for 3729 Sets of Brake Gear Bushes is allotted to both BBC (60% of 100% qty) & JPPL (40% of 100% qty) @ Rs. 7,897. 00 per set basic So in this tender, we will quote list price i.e. Rs. 7,897.00 per set basic plus GST @12% (Rs. 8,844.64 all incl.). You are advised to quote Rs. 7,915.00 per set basic plus GST @12% (Rs. 8,864.80 all incl.) Please confirm</p>	OP-3 and OP-7 decide their rates to be quoted in Southern Railway Tender
	11.11.2019	Mr. Rajesh Nair of OP-7 to Mr. Tarkeshwar Thakur of OP-3	<p>Dear Sir, Agreed. We will quote Rs. 7,915 + 12% = 8,864.80 all Incl. Regards Rajesh Nair</p>	
63.	26.11.2019	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<p>NER Tender No. 22190770 due 29-11-19 is allotted between PPPL & BBC PPPL will quote Rs. 3,190.50 + GST @12% = Rs. 3,573.36 per set all incl. BBC will quote Rs. 3,205/- + GST @12% = Rs. 3,589.60 per set all incl. P1. confirm the same</p>	Ms. Shanta Sohoni states that North Eastern Railway tender is allocated between OP-5 and OP-3 and provides prices to be quoted
64.	12.12.2019	Mr. Harsha Gumballi of OP-8 to Ms. Shanta Sohoni of OP-5, Mr. Venkata and Mr. Vishnu of OP-8 and Mr. Vikas Agarwal of OP-6	<p>Dear All, WE would like to inform that we had quoted North East Frontier tender no WE 30190409 opened on 09.10.2019. We had quoted Rs. 80.64/- all-inclusive which is 72 basic + 12% GST which is 8.6% more than the PLR rate which is 66.25/- We have observed that initially the tender was allocated to CSL, but we were LI as the rates quoted by CSL was Rs. 90 + 30 freight + 12% GST (All Incl. 134.40) We had no prior information about the change in rates to be quoted. We wish to know the reason for quoting higher rates....</p>	OP-8 requests for clarification as to why did OP-6 quote higher rates than decided in North-East Frontier Railway tender without any prior information.



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation																		
65.	18.01.2020	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, Mr. Harsha Gumballi and Mr. Surya of OP-8, Mr. Ram Chandra of OP-6, Mr. R.K. Singh of OP-10, and OP-7	<p><i>Subject: SCR TENDER NO 30191446 DUE 22-1-2020</i></p> <p><i>Attachments: Bush Ac-5.xls</i></p> <p><i>Dear All,</i></p> <p><i>SCR TENDER NO. 30191446 DUE 22-01-2020 Rate of the item should be read as Rs. 66.25 per pc. instead of Rs. 63/-</i></p> <p><i>All are requested to quote this tender accordingly.</i></p>	Ms. Shanta Sohoni provides rate to be quoted for South Central Railway tender. She also sends as attachment, revised Price List Rates, and allocation of tenders and share.																		
66.	13.02.2020	Mr. Rajesh Nair of OP-7 to Mr. Tarkeshwar Thakur of OP-3 and Mr. Alok Somani of OP-1/ OP-3	<p><i>Dear Sir</i></p> <p><i>We received information from S. Rly for the below tender and found that BBC is reduced rate of Rs. 400/- per set in the negotiation and entire order is going to BBC.</i></p> <p><i>Since we both are allotted in this tender and no information received so far from your side for attending negotiation and reduce rate.</i></p> <p><i>All the matters have been settled during pool's last meeting and now it is very shameful matter.</i></p> <p><i>How can we run such type of pool?</i></p> <p><i>Pl. clarify</i></p> <table border="1"> <thead> <tr> <th>Rly</th> <th>Tender No.</th> <th>Due Dt.</th> <th>Item</th> <th>Tender Qty</th> <th>Rate</th> <th>Value</th> <th>BBC</th> <th>JPPL</th> </tr> </thead> <tbody> <tr> <td>SR</td> <td>04190921</td> <td>15/11/2019</td> <td>Kit for HPPA Brake gear bushes for 4 items as per RDSO SK-81039 Alt. 15. Item No. 2 = 120 Nos., Item No. 3 = 76 Nos., Item no. 7 = 32 Nos., Item No.11 = 8 Nos., Bush T-3-2-808 item</td> <td>3729</td> <td>7897</td> <td>29447913</td> <td>17668748</td> <td>11779165</td> </tr> </tbody> </table>	Rly	Tender No.	Due Dt.	Item	Tender Qty	Rate	Value	BBC	JPPL	SR	04190921	15/11/2019	Kit for HPPA Brake gear bushes for 4 items as per RDSO SK-81039 Alt. 15. Item No. 2 = 120 Nos., Item No. 3 = 76 Nos., Item no. 7 = 32 Nos., Item No.11 = 8 Nos., Bush T-3-2-808 item	3729	7897	29447913	17668748	11779165	OP-7 expresses anguish at OP-3's non-regard to cartel arrangement with respect to Southern Railway tender which was allocated to both OP-3 and OP-7.
Rly	Tender No.	Due Dt.	Item	Tender Qty	Rate	Value	BBC	JPPL														
SR	04190921	15/11/2019	Kit for HPPA Brake gear bushes for 4 items as per RDSO SK-81039 Alt. 15. Item No. 2 = 120 Nos., Item No. 3 = 76 Nos., Item no. 7 = 32 Nos., Item No.11 = 8 Nos., Bush T-3-2-808 item	3729	7897	29447913	17668748	11779165														



सत्यमेव जयते



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation									
			<table border="1"> <tr> <td></td> <td></td> <td></td> <td>No. 3 = 8 Nos.</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table> <p>Thanks & Regards, Rajesh Nair</p>				No. 3 = 8 Nos.						
			No. 3 = 8 Nos.										
67.	25.02.2020	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3	<p>This tender is allotted between PPPL & BBC Polyset will quote Rs. 7,227/- + GST 12% = Rs. 8,094.24 all inclusive BBC will quote Rs. 8,094.24 + GST Nil = Rs. 8,094.24 all inclusive Pl. confirm the same</p>	<p>Ms. Shanta Sohoni allocates North Central Railway tender between OP-3 and OP-5 and provides prices to be quoted. However, she later alleges that OP-3 has underquoted and accordingly it should withdraw its bid.</p>									
	02.03.2020	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur and Mr. Alok Somani of OP-3	<p>Sir, NCR tender No. 30192378 due on 02/03/2020 for 1037 sets This tender was allotted between Polyset and BBC and we have also informed you that rates to be quoted for both the firms. And the same was confirmed by you But you have not quoted the same rate and also quoted lower rates You are requested to withdraw your offer by giving copies to all pool members Regards, Polyset Plastics Pvt. Ltd Though we have informed you that both will quote the same rate</p>										
68.	12.05.2020	WhatsApp chat between Mr. Bhupesh Bafna of OP-2/ OP-4/ OP-5 and Mr. Alok Somani of OP-1/ OP-3	<p>Bhupesh Bafna: Sir, how to go about. Alok Somani: Can't help Not in my hands if the officer is taking time to send the draft Bhupesh Bafna: Sir, reced call from Quadrant reg. N. Rly. tender where BBC has quoted lower rate. He said that BBC should withdraw their offer today otherwise they will quote lower rate in the next tender Sir, pl do the needful. Sir, it will be difficult to manage everyone. Alok Somani: You can explain them the background as to why we quoted low Bhupesh Bafna: They don't have an issue that you have quoted in a tender allotted to Polyset. Issue is the prices are low. Sir, with lots of difficulty we have maintained the prices. Alok Somani: Prices quoted are same at which JPPL took away NR tender which was allotted to us last year</p>	<p>OP-3 had quoted lower in Northern Railway tender than decided. So OP-10 complained to OP-5. Mr. Bhupesh Bafna can be seen telling this to Mr. Alok Somani and asking OP-3 to withdraw. Mr. Somani however, explains as to why OP-3</p>									



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<p><i>Bhupesh Bafna: I leave it to you.</i> <i>In the interest of a Pool it's best the you submit a withdrawal letter.</i> <i>Between our issue.</i> <i>We will wait for your draft & do the needful</i></p>	underquoted because OP-7 took away its last tender of Northern Railway.
	14.05.2020	WhatsApp chat between Mr. Bhupesh Bafna and Mr. Alok Somani	<p><i>Bhupesh Bafna: Sir, again I'm requesting you. Please submit your withdrawal letter. The rates are 25% lower than our PLR</i> <i>Hi. Hope the letter is fine It can be sent today itself</i> <i>Alok Somani: Not fine I will send you draft Railway officer is drafting the same Will send upon receipt</i> <i>Bhupesh Bafna: Ok. Sir we will send the letter Don't worry.</i> <i>I request you to withdraw you offer letter</i> <i>Sir, again I'm requesting you.</i> <i>Please submit your withdrawal letter.</i> <i>The rates are 25% lower than our PLR rates.</i> <i>It will effect everything.</i> <i>Many pool members are also requesting for the same.</i> <i>Hope you will do the needful</i></p>	
69.	15.05.2020	Ms. Shanta Sohoni to Mr. Alok Somani and Mr. Tarkeshwar Thakur of OP-3, Mr. Ram Chandra of OP-6, OP-7, Mr. Harsha Gumballi and Mr. Surya of OP-8, and Mr. R..K. Singh of OP-10	<p><i>Subject: Allotment of Brake gear bushes</i> <i>Attachments: Bush Ac-5.xls</i></p>	Ms. Shanta Sohoni sends as attachment, revised Price List Rates and allocation of tenders.
70.	26.05.2020	Ms. Shanta Sohoni of OP-5 to Mr. Tarkeshwar Thakur of OP-3, OP-7, Mr. Harsha Gumballi and Mr. Surya of OP-8, Mr. Ram Chandra of OP-6, and MR. R.K. Singh of OP-10	<p><i>Dear All</i> <i>It is suggested that we increase our PLR for HPPA Bushes.</i> <i>Few reasons are as under:</i> <i>1. Due to weakening of INR ys U\$S and also implication of Import duty.</i> <i>2. Railways are floating tenders now but they need supplies next year. We should cover all uncertainties in our prices.</i></p>	Ms. Shanta Sohoni proposes to increase prices of HPPA bushes by 8-10%.



सत्यमेव जयते



S. No.	Date	E-mail (To and From)	Content of E-mail	Observation
			<p><i>3. Increase in expenses % and overheads % due to Covid 19. Therefore, we suggest that we prices should be increased by 8% to 10%. All are requested to send your comments on this suggestion.</i></p>	



सत्यमेव जयते



46. From the aforesaid detailed evidences, the *modus operandi* of the cartel operating between the OPs is very clear. The suppliers of HPPA/ SLPR bushes communicated with each other through e-mails or WhatsApp communications from at least April 2016 to May 2020. Ms. Shanta Sohoni was responsible for co-ordination amongst the members of cartel. Usually, an e-mail was circulated from Ms. Shanta Sohoni, an employee of OP-5 (and also on behalf of OP-2 and OP-4) to the other OPs allocating forthcoming tenders in total for the period ahead and also informing and discussing the prices to be quoted. These OPs included OP-3 (including OP-1), OP-6, OP-7, OP-8, OP-9 and OP-10.
47. Ms. Shanta Sohoni kept record of all forthcoming tenders of Indian Railways updated online on Indian Railways E-procurement System ('IREPS'). She allocated tenders on the basis of allotment value (a decided percentage (%) distribution of tenders) of each member which was maintained similar to an account statement. In this regard, allocation tables were maintained which also mentioned earlier shortage/ excess value and allotted value with net excess. Therefore, tenders were allocated in compliance to the allotment share. There were also instances where tenders were allocated to more than one member/ vendor/ supplier as agreed. In such cases, members mutually agreed to a price before filing the bid. Ms. Shanta Sohoni communicated the basic price at which allocated vendor should quote in the allotted tender. Thereafter, the vendors communicated the price based on their respective additional taxes and arrived at a mutually agreed price for submitting the bids over e-mails. As a next step, Ms. Shanta Sohoni instructed the members *via* e-mail that non-allottee vendors should quote prices that are 8-10% higher than basic prices agreed by members. With course of time, various players/ vendors kept on adding to mutually agreed agreement/ pool and share of each member was adjusted accordingly, in order to accommodate new players.
48. Existence of such cartel pool/ arrangement between the OPs was also acknowledged by their various representatives before the DG. Mr. Alok Somani of OP-1/ OP-3, in his statement recorded before the DG, admitted that he was approached by other manufacturers to maintain prices and he was a part of cartel. Mr. Bhupesh Bafna as well as Ms. Shanta Sohoni of OP-2/ OP-4/ OP-5 also submitted before the DG that an informal market understanding existed amongst the existing approved bidders that they should all have reasonable rate and get reasonable share of overall business to recover



investments. Mr. Vikas Agarwal of OP-6 in his statement also stated that he was approached by other manufacturers and joined the group of other RDSO approved manufacturers for a limited period up to 20.03.2019 for providing supporting bid quotations. However, he stated that the company did not benefit much from the agreement as it hardly received any orders. In his submission before the DG, Mr. Vishal Baid of OP-7 also admitted that since 2016, authorised persons of OP-7 have been communicating with other manufacturers. He submitted that Mr. Rajeev Dudhani, Consultant/ Advisor for OP-7 was working as a commission/ liaison agent for railways business and he was responsible for marketing and quality control for HPPA Bushes orders. Further, he submitted that Mr. Rajesh R., Senior Manager, Operations at OP-7 was the authorised person for filing bids on behalf of OP-7 in tenders floated by Railways for HPPA Bushes. In this regard, Mr. Rajesh R., in his submission, stated that he communicated with other manufacturers of HPPA (and SLPR) Bushes to discuss and finalise bids to be submitted for tenders of Indian Railways. OP-9, in its submission before the DG, also acknowledged the receipt of e-mails from OP-4. Mr. Luv Kumar of OP-10 also, before the DG, admitted that all the approved vendors in market for supply of HPPA bushes were participating in a cartel. He also admitted to have been part of cartel since 2014. He admitted that there were two physical meetings during 2014-2020. As per Mr. Luv Kumar, he attended first meeting in 2016 at JW Marriott, Aero city, Delhi, which was called by Polyset Group for discussing market share of each vendor pursuant to inclusion of Black Burn Group in the cartel. Hence, it is observed that more or less, representatives of almost all the OPs (OP-1, OP-2, OP-3, OP-4, OP-5, OP-6, OP-7, OP-8, and OP-10) have admitted to the existence of the abovesaid cartel arrangement with respect to HPPA Bushes/ SLPR Bushes.

49. With respect to OP-9, it is noted that three e-mails dated 11.04.2016, 16.04.2016 and 28.04.2016 were sent by Ms. Shanta Sohoni to various OPs including to OP-9 regarding allocation of forthcoming tenders. Allocation tables annexed with such e-mails show distribution of 10% share to OP-9. OP-9 has not even denied the receipt of such e-mails. In fact, in its submission before the DG, OP-9 has acknowledged that it has received such e-mails. Though in its suggestions/objections to the DG Report, OP-9 has submitted that it stopped manufacturing HPPA bushes/ SLPR bushes and participating in railway tenders from the 2nd half of 2016 and it never replied to such e-



mails received, the Commission observes that there is nothing on record to show that OP-9 also objected to the sending of such e-mails to it by Ms. Shanta Sohoni. In this backdrop, the Commission finds the pleas urged by OP-9 of little significance and in the opinion of the Commission, the evidences on record establish that OP-9 was also a part of the cartel arrangement amongst the OPs.

50. With respect to OP-11, it is noted that though there seems to be no e-mails/ WhatsApp messages exchanged with OP-11 by the other OPs, however, the IP addresses from which the bids of OP-11 were filed in the railway tenders matched with OP-1. Also, in certain tenders, IP address also matched with OP-3. OP-11 was located in Kolkata as was OP-3. Further, the DG, from analysis of the sales turnover of OP-11, has noted that the annual turnover of OP-11 was negligible; yet the company participated in tenders quoting extremely high prices with rare chance of being allotted the tenders. Also, Mr. Alok Somani of OP-1/ OP-3 in his statement stated that OP-11 started business on his proposal and Mr. Shirish Tapuriah, ex-Director of OP-11 was a family friend. The companies were also sharing employees on the pretext of work experiences *etc.* Therefore, in the opinion of the Commission, OP-11 was also a part of the cartel arrangement which existed between the other OPs.
51. As far as OP-6 is concerned, it has submitted before the Commission that it was not a member of the association amongst the OPs for a major portion of the period in question and had reservations in forming or participating in this association. However, from the e-mail communications extracted above including several e-mails exchanged between OP-6 and the other OPs, the involvement of OP-6 in the cartel arrangement is well established.
52. Regarding certain pleas raised by OP-8 that it did not form part of the initial reference received in the matter; it had no commonality of IP addresses with other OPs *etc.*, the Commission finds that such arguments made by OP-8 do not help its case. The involvement of OP-8 in the cartel arrangement between the OPs is well established from the e-mail communications extracted above, which include multiple e-mails exchanged by OP-8 with other OPs.



सत्यमेव जयते



53. Further, it is noted that the OPs have argued that the cartel conduct of the OPs did not lead to any AAEC in the market as there were no entry barriers for new entrants, nor were competitors driven out of the market, nor prices increased for the Indian Railways.
54. In this regard, *firstly*, the Commission notes that the provisions of Section 3(1) of the Act not only proscribe the agreements which cause an AAEC in the market, but also forbid agreements which are likely to cause an AAEC in the market. *Secondly*, the Commission notes that once an agreement of the types specified under Section 3(3) of the Act is established, the same is presumed to have an AAEC within India. Thus, it is axiomatic to presume in the present matter that the impugned conduct of the parties has caused AAEC within India.
55. No doubt, as per the ratio of the decision given by the Hon'ble Supreme Court of India in the matter of *Rajasthan Cylinders and Containers Ltd. v. Union of India and Others, 2018 (13) SCALE 493*, the presumption of AAEC in a case involving contravention of the provisions of Section 3(3) of the Act can be rebutted by the parties by placing evidence to the contrary on record, however, it is noted that it is upon the contravening parties to rebut the presumption of AAEC by showing positive effects emanating from the cartel activity like accrual of benefits to the consumers (in the instant case, the Indian Railways), improvement in production or distribution of goods or provision of services, or promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services.
56. In this regard, the relevant excerpts of the Hon'ble Supreme Court decision in *Rajasthan Cylinders (supra)*, are as follows:

“We may also state at this stage that Section 19 (3) of the Act mentions the factors which are to be examined by the CCI while determining whether an agreement has an appreciable adverse effect on competition under Section 3. However, this inquiry would be needed in those cases which are not covered by clauses (a) to (d) of sub-Section (3) of Section 3. Reason is simple. As already pointed out above, the agreements of nature mentioned in sub-Section (3) are presumed to have an appreciable effect and, therefore, no further exercise is needed by the CCI once a finding is arrived at that a particular agreement fell in any of the aforesaid four categories. We may hasten to add, however, that agreements mentioned in Section 3(3) raise a presumption that such agreements shall have an appreciable adverse effect on competition. It follows, as a fortiori, that the



presumption is rebuttable as these agreements are not treated as conclusive proof of the fact that it would result in appreciable adverse effect on competition. What follows is that once the CCI finds that case is covered by one or more of the clauses mentioned in sub-section (3) of Section 3, it need not undertake any further enquiry and burden would shift upon such enterprises or persons etc. to rebut the said presumption by leading adequate evidence. In case such an evidence is led, which dispels the presumption, then the CCI shall take into consideration the factors mentioned in Section 19 of the Act and to see as to whether all or any of these factors are established. If the evidence collected by the CCI leads to one or more or all factors mentioned in Section 19 (3), it would again be treated as an agreement which may cause or is likely to cause an appreciable adverse effect of competition, thereby compelling the CCI to take further remedial action in this behalf as provided under the Act. That, according to us, is the broad scheme when Sections 3 and 19 are to be read in conjunction.”

57. The Commission notes that in the present matter, OP-1 and OP-3 have stated that development of SLPR Bushes by them and entry of OP-11 in the market amounts to improvement in production and distribution thereby rebutting AAEC. However, in view of the Commission, such development was not contingent upon or in any way linked to collusive arrangement between the OPs but the same would have taken place irrespective of such cartel conduct. As such, in view of the Commission, it can be presumed in the instant matter that the cartel arrangement between the OPs led to an AAEC in the market for HPPA Bushes/ SLPR Bushes within India. The OPs have been unable to show any positive effects emanating from their cartel activity like accrual of benefits to the consumers, improvement in production or distribution of goods or provision of services, or promotion of technical, scientific and economic development by means of production or distribution of goods or provision of services, rather the collusive conduct of the OPs affected fair competition in the market. On a holistic evaluation of the submissions made by the parties and in light of the factors enumerated in Section 19(3) of the Act, the Commission is satisfied that in the present matter, the parties have not been able to dislodge the statutory presumption of AAEC, by adducing cogent evidence to the contrary, as required.



58. Hence, the Commission observes that there was a clear understanding between the OPs *w.r.t.* determination and revision of prices in regard to tenders floated by Railways for procurement of Brake Gear Bushes, which is in contravention of the provisions of Section 3(3)(a) of the Act. Further, there were also e-mails exchanged between the OPs where one OP can be seen pressuring another OP to quote only the decided prices and not lower and where OPs can be seen asking other OPs to withdraw their offers. This amounts to an act of controlling supply and market by regulating who and when shall supply the products, which is in contravention of the provisions of Section 3(3)(b) of the Act. There was also clear allocation of tenders amongst the OPs qualifying as sharing of market amongst them in terms of percentage with addition and reduction with each tender and in terms of monetary amount as well, wherein the balance sheet was displayed for each player, which is in contravention of the provisions of Section 3(3)(c) of the Act. However, looking at the *modus operandi* of the cartel and the evidences available on record, the Commission finds that conclusion of geographical allocation of market amongst the OPs cannot be reached, as concluded by the DG. Lastly, such *modus operandi* of the OPs amounts to bid-rigging in contravention of the provisions of Section 3(3)(d) of the Act by eliminating competition and manipulating the bidding process by forming a pool or cartel of vendors, even for developmental vendors (Part II vendors) who were entering into the market and were at the initial phases of manufacturing.
59. Though the OPs have also argued that they were forced to indulge into such pool arrangement and cartel activity due to the market structure, in order to avoid losses and get their fair share of business from the Indian Railways, the Commission is of the opinion that the same does not bestow a right upon the OPs *i.e.* the suppliers/vendors to collude together and fix prices, allocate quantities, and indulge into the illegal conduct of bid-rigging in violation of the provisions of the Act.

Liability under Section 48:

60. Now that contravention of the provisions of the Act by the OPs has been established, the Commission proceeds to determine in the subsequent paragraphs, the role and liability of the respective individuals of the OPs, in terms of Section 48 of the Act.



61. The DG has found the following individuals of the OPs liable in terms of Section 48 of the Act, for the anti-competitive conduct of their respective company:

OP	Person	Liability u/s
OP-1	Mr. Alok Somani	48(1)
OP-3	Mr. Alok Somani, Director	48(1) and 48(2)
OP-2	Mr. Bhupesh Bafna, Director	48(1) and 48(2)
	Ms. Shanta Sohoni, Employee	48(2)
OP-4	Mr. Bhupesh Bafna, Partner	48(1) and 48(2)
	Ms. Shanta Sohoni	48(2)
OP-5	Mr. Bhupesh Bafna, Partner	48(1) and 48(2)
	Ms. Shanta Sohoni	48(2)
OP-6	Mr. Vikas Agarwal, Director	48(1) and 48(2)
OP-7	Mr. Vishal Baid, Director	48(1) and 48(2)
	Mr. Rajeev Dhudani, Consultant/ Advisor	48(2)
	Mr. Rajesh R., Senior Manager, Operations	48(2)
OP-8	Mr. Vishnu N.M., Managing Partner	48(1) and 48(2)
	Mr. Venkata Subramanyam, Managing Partner	48(1) and 48(2)
	Mr. Harsha Gumballi, Manager (Admin)	48(2)
OP-9	Mr. Salimuddin, Managing Partner	48(1)
OP-10	Mr. Luv Kumar, Director	48(1) and 48(2)
	Mr. R.K. Singh, Assistant Manager, Marketing	48(2)
OP-11	Mr. Shirish Tapuriah, ex-Director	48(1) and 48(2)

62. The role and liability of each of them is discussed as follows:

(1) **Mr. Alok Somani, Partner of Moulded Fibreglass Products and Director of Black Burn and Co. Pvt. Ltd.**

63. The DG has noted that as per the records of the Registrar of Companies, Ministry of Corporate Affairs, OP-1 is an LLP which is managed by two partners *i.e.* Ms. Manjushree Somani and Ms. Tanushree Somani since 11.03.2015. Before the DG, Ms. Manjushree Somani submitted an Affidavit stating that she has no personal knowledge about transactions and business of OP-1 and her husband Mr. Alok Somani is responsible for all the decisions and day to day working of the firm. When confronted with such Affidavit, Mr. Alok Somani also acknowledged the same. Further, the DG has noted that Mr. Alok Somani is also one of the three directors in the private limited company *i.e.* OP-3.



64. In his statement before the DG, Mr. Alok Somani has admitted that he was approached by other manufacturers of HPPA Bushes/ SLPR Bushes, to maintain prices and he was a part of the cartel. Further, as detailed above, multiple e-mail communications to and fro the other OPs have been sent/ received by Mr. Alok Somani with respect to the cartel arrangement. Certain WhatsApp communications between Mr. Alok Somani and Mr. Bhupesh Bafna with respect to discussions on HPPA Bushes/ SLPR Tenders are also there.
65. Hence, in view of the above, the Commission finds Mr. Alok Somani liable in terms of both Section 48(1) and 48(2) of the Act, for the cartel conduct of OP-3 as well as OP-1.
- (2) Mr. Bhupesh Bafna, Director of Polyset Plastics Private Ltd. and Partner of Power Mould and M/s Anju Techno Industries**
66. The DG has noted that Mr. Bhupesh Bafna was one of the three Directors in private limited company *i.e.* OP-5. Further, the DG has noted that Mr. Bafna is also a partner in partnership firms, *namely*, OP-2 and OP-4, which Mr. Bafna has stated before the DG are sister entities of OP-5.
67. Mr. Bafna has acknowledged before the DG that an informal market understanding existed amongst the approved bidders of HPPA Bushes/ SLPR Bushes that they should all have reasonable rate and get reasonable share of overall business to recover investments. Further, as detailed above, multiple e-mail and WhatsApp communications are on record which show the involvement of Mr. Bhupesh Bafna in the cartel arrangement.
68. Hence, in view of the above, the Commission finds Mr. Bhupesh Bafna liable in terms of both Section 48(1) and 48(2) of the Act, for the cartel conduct of OP-5 as well as OP-2 and OP-4.
- (3) Ms. Shanta Sohoni, Employee at Polyset Plastics Private Ltd.**
69. The DG has noted that Ms. Shanta Sohoni was an employee at OP-5, who was also working on behalf of OP-2 and OP-4. She was the kingpin of the cartel who allocated forthcoming tenders amongst the OPs and informed them about the prices to be quoted. Ms. Sohoni was responsible for co-ordination amongst the members of the cartel. As



detailed above, there are several e-mail communications to and fro the other OPs sent/ received by Ms. Shanta Sohoni with respect to the cartel arrangement.

70. Hence, in view of the above, the Commission finds Ms. Shanta Sohoni liable in terms of Section 48(2) of the Act, for the cartel conduct of OP-5.

(4) Mr. Vikas Agarwal, Director of Calstar Steel Ltd.

71. The DG has noted that Mr. Vikas Agarwal was one of the four Directors of OP-6. In his statement before the DG, Mr. Agarwal admitted that he was approached by other manufacturers and joined the group of other RDSO approved manufacturers for a limited period up to 20.03.2019 for providing supporting bid quotations. There are also certain e-mail communications on record which have been sent/ received by Mr. Vikas Agarwal to/ from the other OPs.

72. Hence, in view of the above, the Commission finds Mr. Vikas Agarwal liable in terms of both Section 48(1) and 48(2) of the Act, for the cartel conduct of OP-6.

(5) Mr. Vishal Baid, Director of Jai Polypan Pvt. Ltd.

73. The DG has noted that Mr. Vishal Baid was one of the three Directors of the private limited company OP-7. He admitted before the DG that since 2016, authorised persons of OP-7 have been communicating with other manufacturers. From the contents of the e-mail dated 11.09.2019 sent by Ms. Shanta Sohoni to representatives of some other OPs as extracted above, it is noted that in the meeting dated 10.09.2019 held between the OPs at Mumbai in which discussions pertaining to approved vendors and rates to be revised were made, Mr. Vishal Baid was present as the representative of OP-7.

74. Hence, in view of the above, the Commission finds Mr. Vishal Baid liable in terms of Section 48(1) and 48(2) of the Act, for the cartel conduct of OP-7.

(6) Mr. Rajeev Dhudani, Consultant/ Advisor at Jai Polypan Pvt. Ltd.

75. Mr. Vishal Baid, Director of OP-7, has submitted before the DG that Mr. Rajeev Dudhani, Consultant/ Advisor at OP-7, was working as a commission/ liaison agent for railways business and he was responsible for marketing and quality control for HPPA Bushes orders. Further, as detailed above, multiple e-mail communications to and fro the other OPs have been sent/ received by Mr. Rajeev Dudhani with respect to the cartel arrangement.



76. Hence, in view of the above, the Commission finds Mr. Rajeev Dudhani liable in terms of Section 48(2) of the Act, for the cartel conduct of OP-7.

(7) Mr. Rajesh R., Senior Manager, Operations at Jai Polypan Pvt. Ltd.

77. Mr. Vishal Baid, Director of OP-7, has submitted before the DG that Mr. Rajesh R., Senior Manager, Operations at OP-7, was the authorised person for filing bids on behalf of OP-7 in the tenders floated by the Indian Railways for HPPA Bushes. In his submission before the DG, Mr. Rajesh R. has acknowledged that he used to communicate with other manufacturers of HPPA/ SLPR Bushes to discuss and finalise bids to be submitted for tenders of Indian Railways. As detailed above, several e-mail communications to and fro the other OPs sent/ received by Mr. Rajesh R. show his clear involvement in the cartel arrangement.

78. Hence, in view of the above, the Commission finds Mr. Rajesh R. liable in terms of Section 48(2) of the Act, for the cartel conduct of OP-7.

(8) Mr. Vishnu N.M., Managing Partner of Polymer Products of India Ltd.

79. The DG has noted that Mr. Vishnu N.M., was one of the Managing Partners of partnership firm OP-8.

80. Hence, being in-charge of and responsible to OP-8 for the conduct of its business, which responsibility has not been denied by Mr. Vishnu in his suggestions/ objections to the DG Report, the Commission finds Mr. Vishnu N.M. liable in terms of Section 48(1) of the Act, for the cartel conduct of OP-8.

(9) Mr. Venkata Subramanyam, Managing Partner of Polymer Products of India Ltd.

81. The DG has noted that Mr. Venkata Subramanyam was also one of the Managing Partners of partnership firm OP-8.

82. Hence, being in-charge of and responsible to OP-8 for the conduct of its business, which responsibility has not been denied by Mr. Subramanyam in his suggestions/ objections to the DG Report, the Commission finds Mr. Venkata Subramanyam liable in terms of Section 48(1) of the Act, for the cartel conduct of OP-8.



(10) Mr. Harsha Gumballi, Manager (Admin) at Polymer Products of India Ltd.

83. The DG has noted that Mr. Harsha Gumballi was the Manager (Admin) at OP-8. As detailed above, there are several e-mail communications to and fro the other OPs sent/received by Mr. Harsha Gumballi with respect to the cartel arrangement.

84. Hence, in view of the above, the Commission finds Mr. Harsha Gumballi liable in terms of Section 48(2) of the Act, for the cartel conduct of OP-8.

(11) Mr. Salimuddin, Managing Partner of M/s Micro Engineers

85. The DG has noted that Mr. Salimuddin was the Managing Partner of OP-9 and he was responsible for the day-to-day activities of the company. He was also aware of the receipt of e-mails from OP-4 with respect to the cartel arrangement.

86. Hence, in view of the above, the Commission finds Mr. Salimuddin liable in terms of Section 48(1) of the Act, for the cartel conduct of OP-9.

(12) Mr. Luv Kumar, Director of Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.)

87. The DG has noted that Mr. Luv Kumar was one of the three Directors of OP-10. He admitted before the DG that all approved vendors in the market for supply of HPPA Bushes were participating in a cartel. He also admitted to have been a part of the cartel.. He admitted that there were two physical meetings during 2014-2020 between the OPs, one of which he attended in 2016 at JW Marriott, Aero city, Delhi, which was called by Polyset Group for discussing market share of each vendor pursuant to inclusion of Black Burn Group in the cartel. Further, as detailed above, multiple e-mail communications are on record which have been sent/ received by Mr. Luv Kumar to and fro the other OPs.

88. Hence, in view of the above, the Commission finds Mr. Luv Kumar liable in terms of both Section 48(1) and 48(2) of the Act, for the cartel conduct of OP-10.

(13) Mr. R.K. Singh, Assistant Manager, Marketing at Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.)

89. Mr. Luv Kumar, Director of OP-10, in his submission before the DG, has stated that Mr. R. K. Singh, Assistant Manager, Marketing of OP-10, was responsible for filing of



bids on behalf of the company. Mr. R.K Singh also has admitted that he was responsible for filing bids on behalf of company, however, he has contended that the final rates were submitted after discussion with the Directors. There are also multiple e-mail communications on record which have been sent/ received by Mr. R.K. Singh, to and fro the other OPs.

90. Hence, in view of the above, the Commission finds Mr. R.K. Singh liable in terms of Section 48(2) of the Act, for the cartel conduct of OP-10.

(14) Mr. Shirish Tapuriah, ex-Director of Skylark Projects Pvt. Ltd.

91. The DG has noted that Mr. Shirish Tapuriah, ex-Director of OP-11, has been stated by Mr. Alok Somani of OP-1/ OP-3, to be a family friend who had started the business of OP-11 on Mr. Somani's proposal.

92. Hence, being in-charge of and responsible to OP-11 for the conduct of its business, which responsibility has not been denied by Mr. Tapuriah in his suggestions/ objections to the DG Report, the Commission finds Mr. Shirish Tapuriah liable in terms of Section 48(1) of the Act, for the cartel conduct of OP-11.

Conclusion:

93. The Commission, hence, holds OP-1 to OP-11 guilty of contravention of the provisions of Section 3(3)(a), 3(3)(b), 3(3)(c) and 3(3)(d) read with 3(1) of the Act.

94. As far as individuals' liability is concerned, the Commission holds the following individuals of the OPs liable under Section 48 of the Act, for the anti-competitive conduct of their respective companies:

- (i) Mr. Alok Somani, Partner of Moulded Fibreglass Products and Director of Black Burn and Co. Pvt. Ltd.
- (ii) Mr. Bhupesh Bafna, Director of Polyset Plastics Private Ltd. and Partner of Power Mould and M/s Anju Techno Industries
- (iii) Ms. Shanta Sohoni, Employee at Polyset Plastics Private Ltd.
- (iv) Mr. Vikas Agarwal, Director of Calstar Steel Ltd.
- (v) Mr. Vishal Baid, Director of Jai Polypan Pvt. Ltd.
- (vi) Mr. Rajeev Dudhani, Consultant/ Advisor at Jai Polypan Pvt. Ltd.



- (vii) Mr. Rajesh R., Senior Manager, Operations at Jai Polypan Pvt. Ltd.
- (viii) Mr. Vishnu N.M., Managing Partner of Polymer Products of India Ltd.
- (ix) Mr. Venkata Subramanyam, Managing Partner of Polymer Products of India Ltd.
- (x) Mr. Harsha Gumballi, Manager (Admin) at Polymer Products of India Ltd.
- (xi) Mr. Salimuddin, Managing Partner of M/s Micro Engineers;
- (xii) Mr. Luv Kumar, Director of Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.)
- (xiii) Mr. R.K. Singh, Assistant Manager, Marketing at Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.)
- (xiv) Mr. Shirish Tapuriah, ex-Director of Skylark Projects Pvt. Ltd.

Penalty and lesser penalty:

- 95. Once contravention of the provisions of the Act has been established, the Commission now proceeds to determine the penalty, if any, to be imposed upon the contravening parties, under the provisions of Section 27(b) of the Act.
- 96. Under Section 27(b) of the Act, where after inquiry, the Commission finds that any agreement referred to in Section 3, or action of an enterprise in a dominant position is in contravention of Section 3 or Section 4 of the Act, as the case may be, it may impose upon each of such persons or enterprises which are parties to such agreements or abuse, such penalty, as it may deem fit, which shall be not more than ten percent of the average of the turnover for the last three preceding financial years.
- 97. Accordingly, in terms of the said provision, the Commission decides to compute the penalty to be imposed upon the OPs. Considering the nature of the cartel arrangement, the mitigating factors submitted by the OPs, and the fact that several of the OPs are MSMEs, the Commission decides to impose upon the OPs, penalty @5% of the average of their turnover generated from the sale of HPPA Bushes/ SLPR Bushes, for the last three preceding financial years.
- 98. The same is calculated as under:



सत्यमेव जयते



Moulded Fibreglass Products (OP-1) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	3,56,70,145
2018-19	3,93,63,598
2019-20	2,27,39,892
Total	9,77,73,635
Average	3,25,91,212
Penalty	16,29,561

Power Mould (OP-2) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	3,74,39,979
2018-19	1,86,63,933
2019-20	1,08,360
Total	5,62,12,272
Average	1,87,37,424
Penalty	9,36,871

Black Burn and Co. Pvt. Ltd. (OP-3) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	4,57,70,758
2018-19	4,32,09,639
2019-20	3,30,62,990
Total	12,20,43,387
Average	4,06,81,129
Penalty	20,34,056

Polysset Plastics Private Ltd. (OP-4) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	8,97,149
2018-19	2,85,120
2019-20	1,84,211
Total	13,66,480
Average	4,55,493
Penalty	22,775



सत्यमेव जयते



Anju Techno Industries (OP-5) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	76,55,704
2018-19	3,81,19,042
2019-20	4,40,22,635
Total	8,97,97,381
Average	2,99,32,460
Penalty	14,96,623

Calstar Steel Ltd. (OP-6) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	2,03,16,375
2018-19	1,57,29,968
2019-20	3,32,70,402
Total	6,93,16,745
Average	2,31,05,582
Penalty	11,55,279

Jai Polypan Pvt. Ltd. (OP-7) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	4,58,37,391
2018-19	1,46,75,515
2019-20	92,16,108
Total	6,97,29,014
Average	2,32,43,005
Penalty	11,62,150

Polymer Products of India Ltd. (OP-8) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	6,93,357
2018-19	40,75,909
2019-20	1,80,98,151
Total	2,28,67,417
Average	76,22,472
Penalty	3,81,124



सत्यमेव जयते



M/s Micro Engineers (OP-9) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	-
2018-19	-
2019-20	-
Total	-
Average	-
Penalty	-

Quadrant EPP Surlon India Ltd. (Now MCAM Surlon India Ltd.) (OP-10) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	1,27,83,494
2018-19	2,42,62,622
2019-20	1,65,80,138
Total	5,36,26,254
Average	1,78,75,418
Penalty	8,93,771

Skylark Projects Pvt. Ltd. (OP-11) (In ₹)	
FINANCIAL YEAR	RELEVANT TURNOVER
2017-18	-
2018-19	4,35,710
2019-20	-
Total	4,35,710
Average	1,45,237
Penalty	7,262

99. Similarly, with regard to the individuals of the OPs found liable in terms of Section 48 of the Act for the anti-competitive conduct of their respective companies/firms, the Commission decides to impose penalty @5% of the average of their incomes, for the last three preceding financial years. The same is calculated as under:



सत्यमेव जयते



Mr. Alok Somani of OP-1 and OP-3 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	73,16,867
2018-19	84,32,050
2019-20	84,58,423
Total	2,42,07,340
Average	80,69,113
Penalty	4,03,456

Mr. Bhupesh Bafna of OP-2, OP-4 and OP-5 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	2,64,01,175
2018-19	1,78,79,477
2019-20	1,73,41,330
Total	6,16,21,982
Average	2,05,40,661
Penalty	10,27,033

Ms. Shanta Sohoni of OP-5 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	5,65,203
2018-19	4,35,566
2019-20	Not filed
Total	10,00,769
Average	5,00,385
Penalty	25,019

Ms. Vikas Agarwal of OP-6 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	47,65,700
2018-19	46,87,591
2019-20	35,09,590
Total	1,29,62,881
Average	43,20,960
Penalty	2,16,048



Ms. Vishal Baid of OP-7 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	46,44,562
2018-19	80,61,760
2019-20	1,60,98,510
Total	2,88,04,832
Average	96,01,611
Penalty	4,80,081

Ms. Rajiv Dhudani of OP-7 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	45,78,121
2018-19	10,21,789
2019-20	6,98,540
Total	62,98,450
Average	20,99,483
Penalty	1,04,974

Ms. Rajesh R. of OP-7 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	6,88,858
2018-19	5,61,052
2019-20	2,29,620
Total	14,79,530
Average	4,93,177
Penalty	24,659

Mr. Vishnu N.M. of OP-8 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	1,28,04,802
2018-19	2,03,25,886
2019-20	4,40,84,434
Total	7,72,15,122
Average	2,57,38,374
Penalty	12,86,919



Mr. Venkata Subramanyam of OP-8 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	1,09,44,352
2018-19	1,89,43,577
2019-20	4,16,87,966
Total	7,15,75,895
Average	2,38,58,632
Penalty	11,92,932

Mr. Harsha Gumballi of OP-8 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	4,00,000
2018-19	4,19,200
2019-20	3,81,180
Total	12,00,380
Average	4,00,127
Penalty	20,006

Mr. Salimuddin of OP-9 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	19,85,720
2018-19	15,57,021
2019-20	-
Total	35,42,741
Average	11,80,914
Penalty	59,046

Mr. Luv Kumar of OP-10 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	30,28,652
2018-19	68,47,884
2019-20	Not filed
Total	98,76,536
Average	49,38,268
Penalty	2,46,913



Mr. R.K. Singh of OP-10 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	6,19,788
2018-19	6,66,401
2019-20	7,19,670
Total	20,05,859
Average	6,68,620
Penalty	33,431

Mr. Shirish Tapuriah of OP-11 (In ₹)	
FINANCIAL YEAR	INCOME
2017-18	8,86,994
2018-19	10,71,370
2019-20	Not Filed
Total	19,58,364
Average	9,79,182
Penalty	48,959

100. Regarding lesser penalty, the Commission notes that though OP-3 was the first lesser penalty applicant to approach the Commission, yet it had approached the Commission as a lesser penalty applicant only after investigation in the matter had been ordered. Having said that, it is noted that full and true disclosures of information and evidence and continuous co-operation provided by OP-3 and its individual enabled in establishing contravention of the provisions of Section 3(3) of the Act by the OPs, as brought out *supra*. As such, on a holistic consideration of the matter, the Commission decides to grant to OP-3 and Mr. Alok Somani, 80% reduction in the penalty amount imposed upon them.
101. The second lesser penalty applicant before the Commission was OP-1. The Commission notes that in terms of the disclosures and evidence provided, OP-1 was not able to provide much value addition to the information, material and documents already provided by OP-3 through its lesser penalty application. Nonetheless, full and true disclosures of information and evidence and continuous co-operation provided by OP-1 helped the Commission in establishing contravention of the provisions of Section 3(3) of the Act by the OPs. As such, the Commission decides to grant to OP-1, 40% reduction in the penalty amount imposed upon it.



102. The third lesser penalty applicant before the Commission was OP-7. OP-7 has requested lesser penalty for itself and its individuals viz. Mr. Vishal Baid, Mr. Rajeev Dudhani and Mr. Rajesh R. The Commission notes that OP-7 was the third lesser penalty applicant and by the time of its application, the DG already had in its possession, from the lesser penalty applications filed by OP-3 and OP-1, quite a lot of evidence required for establishing a cartel. However, some evidence submitted by OP-7 has been used by the Commission to form a complete trail evidencing anti-competitive conduct of the OPs; therefore, providing value addition to the investigation of the DG. Further, OP-7 has also disclosed to the Commission about existence of another cartel arrangement. Given the stage at which OP-7 came forward with the disclosures, the quality of information provided by OP-7, the evidence already in possession of the DG at that time, and the entire facts and circumstances of the present case, and the factum of disclosure of another cartel by OP-7, the Commission decides to grant to OP-7 and its three individuals, reduction in penalty to the tune of 30% of the total penalty leviable.
103. The last lesser penalty applicant before the Commission was OP-10. OP-10 has requested lesser penalty for itself and its individuals viz. Mr. R.K. Singh and Mr. Luv Kumar. With regard to OP-10 also, it is noted that by the time application from OP-10 was received, the DG already had in its possession, from the lesser penalty applications filed by OP-3, OP-1 and OP-7, most of the evidence on the basis of which cartelisation in the present matter has been established. However, some evidence submitted by OP-10 has been used by the Commission above to form a complete trail evidencing anti-competitive conduct of the OPs, as such providing value addition to the investigation of the DG. Therefore, given the stage at which OP-10 came forward with the disclosures, the quality of information provided by OP-10, the evidence already in possession of the DG at that time, and the entire facts and circumstances of the present case, the Commission decides to grant to OP-10 and its two individuals, reduction in penalty to the tune of 20% of the total penalty leviable.
104. Consequently, the penalty amounts imposed upon and payable by the OPs are as follows:



(In ₹)

S. No.	OP	Name of Party	Penalty Imposed	Penalty payable after reduction
1.	OP-1	Moulded Fibreglass Products	16,29,561	9,77,737
2.	OP-2	Power Mould	9,36,871	9,36,871
3.	OP-3	Black Burn and Co. Pvt. Ltd.	20,34,056	4,06,811
4.	OP-4	Polyset Plastics Private Ltd.	22,775	22,775
5.	OP-5	M/s Anju Techno Industries	14,96,623	14,96,623
6.	OP-6	Calstar Steel Ltd.	11,55,279	11,55,279
7.	OP-7	Jai Polypan Pvt. Ltd.	11,62,150	8,13,505
8.	OP-8	Polymer Products of India Ltd.	3,81,124	3,81,124
9.	OP-9	M/s Micro Engineers	Nil	Nil
10.	OP-10	Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.)	8,93,771	7,15,017
11.	OP-11	Skylark Projects Pvt. Ltd.	7,262	7,262

105. As far as the individuals of the OPs are concerned, the penalty amounts calculated for them and payable by them are as follows:

(In ₹)

S. No.	Name of Party	Penalty Imposed	Penalty payable after reduction
1.	Mr. Alok Somani of Black Burn and Co. Pvt. Ltd. and Moulded Fibreglass Products	4,03,456	80,691
2.	Mr. Bhupesh Bafna of Power Mould, Polyset Plastics Private Ltd. and M/s Anju Techno Industries	10,27,033	10,27,033
3.	Ms. Shanta Sohoni of Polyset Plastics Private Ltd.	25,019	25,019
4.	Mr. Vikas Agarwal of Calstar Steel Ltd.	2,16,048	2,16,048
5.	Mr. Vishal Baid of Jai Polypan Pvt. Ltd.	4,80,081	3,36,057
6.	Mr. Rajeev Dhudani of Jai Polypan Pvt. Ltd.	1,04,974	73,482
7.	Mr. Rajesh R. of Jai Polypan Pvt. Ltd.	24,659	17,261
8.	Mr. Vishnu N.M. of Polymer Products of India Ltd.	12,86,919	12,86,919
9.	Mr. Venkata Subramanyam of Polymer Products of India Ltd.	11,92,932	11,92,932
10.	Mr. Harsha Gumballi of Polymer Products of India Ltd.	20,006	20,006
11.	Mr. Salimuddin of M/s Micro Engineers	59,046	59,046
12.	Mr. Luv Kumar of Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.)	3,24,381	2,59,505



S. No.	Name of Party	Penalty Imposed	Penalty payable after reduction
13.	Mr. R.K. Singh of Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.)	33,431	26,745
14.	Mr. Shirish Tapuriah of Skylark Projects Pvt. Ltd.	48,959	48,959

106. In view of the above, the Commission passes the following:

ORDER

107. OP-1 to OP-11 are found guilty of contravention of the provisions of Section 3(3)3(a), 3(3)(b), 3(3)(c) and Section 3(3)(d) read with Section 3(1) of the Act. Further, 14 individuals of the OPs are found liable in terms of Section 48 of the Act, for the anti-competitive conduct of their respective entities.

108. The Commission, in terms of Section 27(a) of the Act, directs the parties to cease and desist in future from indulging in any practice/conduct/activity, which has been found in the present order to be in contravention of the provisions of Section 3 of the Act, as detailed in the earlier part of this order.

109. Further, under the provisions of Section 27(b) of the Act, the Commission directs the following parties to pay the following amounts of penalty:

S. No.	Name of Party	Amount of Penalty (In ₹)	Amount in Words
1.	Moulded Fibreglass Products	9,77,737	Rupees Nine Lacs Seventy Seven Thousand Seven Hundred and Thirty Seven Only
2.	Power Mould	9,36,871	Rupees Nine Lacs Thirty Six Thousand Eight Hundred and Seventy One Only
3.	Black Burn and Co. Pvt. Ltd.	4,06,811	Rupees Four Lacs Six Thousand Eight Hundred and Eleven Only
4.	Polysset Plastics Private Ltd.	22,775	Rupees Twenty Two Thousand Seven Hundred and Seventy Five Only
5.	M/s Anju Techno Industries	14,96,623	Rupees Fourteen Lacs Ninety Six Thousand Six Hundred and Twenty Three Only
6.	Calstar Steel Ltd.	11,55,279	Rupees Eleven Lacs Fifty Five



सत्यमेव जयते



S. No.	Name of Party	Amount of Penalty (In ₹)	Amount in Words
			Thousand Two Hundred and Seventy Nine Only
7.	Jai Polypan Pvt. Ltd.	8,13,505	Rupees Eight Lacs Thirteen Thousand Five Hundred and Five Only
8.	Polymer Products of India Ltd.	3,81,124	Rupees Three Lacs Eighty One Thousand One Hundred and Twenty Four Only
9.	M/s Micro Engineers	<i>Nil</i>	<i>Nil</i>
10.	Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.)	7,15,017	Rupees Seven Lacs Fifteen Thousand and Seventeen Only
11.	Skylark Projects Pvt. Ltd.	7,262	Rupees Seven Thousand Two Hundred and Sixty Two Only
12.	Mr. Alok Somani of Black Burn and Co. Pvt. Ltd. and Moulded Fibreglass Products	80,691	Rupees Eighty Thousand Six Hundred and Ninety One Only
13.	Mr. Bhupesh Bafna of Power Mould, Polyset Plastics Private Ltd. and M/s Anju Techno Industries	10,27,033	Rupees Ten Lacs Twenty Seven Thousand and Thirty Three Only
14.	Ms. Shanta Sohoni of Polyset Plastics Private Ltd.	25,019	Rupees Twenty Five Thousand and Nineteen Only
15.	Mr. Vikas Agarwal of Calstar Steel Ltd.	2,16,048	Rupees Two Lacs Sixteen Thousand and Forty Eight Only
16.	Mr. Vishal Baid of Jai Polypan Pvt. Ltd.	3,36,057	Rupees Three Lacs Thirty Six Thousand and Fifty Seven Only
17.	Mr. Rajeev Dhudani of Jai Polypan Pvt. Ltd.	73,482	Rupees Seventy Three Thousand Four Hundred and Eighty Two Only
18.	Mr. Rajesh R. of Jai Polypan Pvt. Ltd.	17,261	Rupees Seventeen Thousand Two Hundred and Sixty One Only
19.	Mr. Vishnu N.M. of Polymer Products of India Ltd.	12,86,919	Rupees Twelve Lacs Eighty Six Thousand Nine Hundred and Nineteen Only
20.	Mr. Venkata Subramanyam of Polymer Products of India Ltd.	11,92,932	Rupees Eleven Lacs Ninety Two Thousand Nine Hundred and Thirty Two Only
21.	Mr. Harsha Gumballi of Polymer Products of India Ltd.	20,006	Rupees Twenty Thousand and Six Only



सत्यमेव जयते



S. No.	Name of Party	Amount of Penalty (In ₹)	Amount in Words
22.	Mr. Salimuddin of M/s Micro Engineers	59,046	Rupees Fifty Nine Thousand and Forty Six Only
23.	Mr. Luv Kumar of Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.)	2,59,505	Rupees Two Lacs Fifty Nine Thousand Five Hundred and Five Only
24.	Mr. R.K. Singh of Quadrant EPP Surlon India Ltd. (now MCAM Surlon India Ltd.)	26,745	Rupees Twenty Six Thousand Seven Hundred and Forty Five Only
25.	Mr. Shirish Tapuriah of Skylark Projects Pvt. Ltd.	48,959	Rupees Forty Eight Thousand Nine Hundred and Fifty Nine Only

110. The parties mentioned in the table above are directed to deposit their respective penalty amounts within 60 days of the receipt of the present order.

111. It is made clear that all information used in the present order is for the purposes of the Act and as such, in terms of Section 57 of the Act, does not qualify for grant of confidential treatment.

112. The Secretary is directed to forward certified copy of the present order to the parties through their respective legal counsel, accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

New Delhi
Date: 04.04.2022

Sd/-
(Bhagwant Singh Bishnoi)
Member