

SCOPE & CCI Workshop on Competition Law and Public Procurement

Standing Conference of Public Enterprises (SCOPE) and Competition Commission of India (CCI) jointly organized a Workshop on “Competition Law and Public Procurement” on 27th March, 2019, which was addressed by Mr. Ashok Kumar Gupta, Chairperson, CCI, Mr. Atanu Chakraborty, Secretary, Department of Investment & Public Asset Management (DIPAM), Mr. Ved Prakash, the then Chairman, SCOPE & CMD, MMTC and Dr. U. D. Choubey, Director General, SCOPE. The workshop was organized with the objective to highlight the competition issues in the area of public procurement. It also sensitized the stakeholders on the legislative framework with respect to the Act which deals with competition issues in public procurement, various ways of bid rigging, diagnostic toolkit prepared by the commission for self-assessment of procurement systems by procurement officials and ways to report any suspicious bid-rigging activity to the Commission. The workshop also deliberated on the jurisprudence developed on the Competition Law in India.



(From L to R): Dr. U. D. Choubey, DG, SCOPE, Mr. Atanu Chakraborty, IAS, Secretary, DIPAM, Mr. Ashok Kumar Gupta, Chairperson, CCI and Mr. Ved Prakash, former Chairman, SCOPE & CMD, MMTC during the Inaugural Session.

Dr. U. D. Choubey said that procurement, value wise, world over is 15% of the world GDP while India spends 30% of the GDP on procurement. Talking about corruption, Dr. Choubey said, procurement and corruption go hand-in-hand, therefore, a need was felt to minimize the corruption, benefit the customers and create a level playing field. Transparency, trust, ethics, integrity and responsiveness, he said, was needed and therefore, in 2002 competition act happened and CCI took its form. Public Sector Enterprises

(PSEs), he said, are system oriented and have introduced a number of procurement systems like e-tendering, bill watch system, reverse auctioning etc. Talking about dispute resolution, Dr. Choubey said that there is a need of centralized manual so that PSEs could handle vigilance mechanism in a better way.

In his address, Mr. Ved Prakash said that PSEs are playing pivotal role in the Indian Economy and have been balancing the growth with social development as well. Public Procurement, he said, is an important part of PSEs and have

multiple checks & balances to ensure transparency and accountability. Talking about the integrity pact, he said, many PSEs have signed it. Competitive neutrality is maintained in the competition law which makes no difference between Public and Private sector, he added. Mr. Ved Prakash advised that better tender design would enhance the PSEs' procurement process.

While delivering the special address, Mr. Atanu Chakraborty said that competition and public procurement are two most important strands of an economy.



(From L to R): Mr. Ashok Kumar Gupta, Chairperson, CCI, Mr. Ved Prakash, former Chairman, SCOPE & CMD, MMTC and Dr. U. D. Choubey, DG, SCOPE addressing the Inaugural Session.

Market, he said, has been seen as the most important factor of moving and economy. Mr. Chakraborty said that from the business point of view competition and scale of business are important factors. It is important that they don't hurt each other to maintain a healthy economy, he added. Secretary, DIPAM further added that with global integration it is important to see buyers' power is not misused. He added that use of electronic devices, e-portal etc. in itself can add value and the size the organization's procurement manual is irrelevant as someone could blame it if the process is too mechanical. In order to have a healthy competition, he suggested, we need to understand the business, contract and specification. He advised PSEs that if we have a good committee and vendor development system, we could bring greater competition.

Mr. Ashok Kumar Gupta in his theme address said that guidelines come from various sources and they are not concurrent, therefore, PSEs need to develop a robust system where every possible reason are put on record. Chairperson, CCI said that the government is waiving-off the experience criteria; therefore, we too have to think out of the box,

think beyond the guidelines and think about the guidelines in totality. Sharing various anecdotes from his past experience in public sector, Mr. Gupta said that if one has followed something in a transparent manner without benefiting a particular entity, one need not worry about vigilance. Procedure alone can't save one from scrutiny, he further added. PSEs, he said, is not working in isolation, therefore, they have to be aware about the environment all around. He said that the tender design is a big issue and it needs to be transparent and forthcoming. In order to further strengthen the procurement process, Mr. Gupta said that CCI will come out with diagnostic tool kit for tender design to avoid bid rigging. He further suggested that lesser penalty provision needs to be promoted to bust the bidding cartel. Chairman, CCI also said that Government e-Marketplace (GeM) and CCI is coming out with software to look into bidders' past bids and investigate.

Following the inaugural session presentations were made by speakers from CCI, GeM, the World Bank, GAIL, NTPC, BPCL and SAIL.

Ms. Payal Malik, Adviser, CCI in her presentation spoke about

Public Procurement Markets, importance of a healthy competition, competition issues in public procurement, the Competition Act 2002, role of CCI, Bid Rigging/ Collusive Bidding and Tender Design. She also discussed various case studies involving bid rigging.

Mr. K. C. Jha, Addl. CEO, GeM in his address spoke about the opportunities provided by GeM to all the organizations, vendors and sellers. He apprised the present about the unique measures taken by GeM to ensure transparency and present a fair picture in front of the organizations.

Mr. Shanker Lal, Procurement Specialist, World Bank in his presentation spoke about the World Bank's initiatives to improve competition in projects financed by it. He also briefly discussed about the various measures taken by the world bank to ensure fair competition and procurement like, Qualification Requirements and Specifications, Project Procurement Strategy for Development (PPSD), Standard Bidding Documents, Standstill Period, Complaint Handling and Debriefing etc.

Mr. D. P. Sen, ED (Contracts & Procurement), GAIL spoke about the contract and procurement

Contd... to # 40

DG, SCOPE addresses CSR Summit



Dr. U.D. Choubey, Director General, SCOPE spoke in the “CSR Summit 2019 on skill development” organized by the State Government of Bihar. Dr. Choubey advocated transforming certificates to mini tiny micro product centres in every village home and sell the products in the domestic and international market through a well proven supply chain management.

Contd... from # 39

practices in GAIL. He said through pre-tender meetings, health monitoring of contracts, quarterly closures of contracts, Samadhan mechanism etc. GAIL maintains innovative techniques in contract and procurement.

Mr. T. R. Dutta, ED (CC & M), NTPC in his presentation spoke about best practices adopted in corporate contracts by NTPC. He said that NTPC's Bidding Documents are based on World Bank Bidding documents with

suitable modifications with a view to have continual improvement. He further added that NTPC has adopted E-tendering for 100% of tenders and has also adopted E-Reverse Auction for many packages.

Ms. Poornima Mittal, Chief Manager (Procurement), BPCL in her presentation highlighted various initiatives taken by BPCL to ensure healthy bidding process. She also mentioned that BPCL has an active portal for all the

information regarding procurement and are actively participating at the GeM portal as well.

Ms. Neera Sud, DGM (MM), SAIL deliberated upon the Materials Management setup in SAIL. She also spoke about the challenges in procurement, guidelines for procurement in SAIL and SAIL's endeavour to bring in more efficiency.

The workshop was attended by large number of senior executives of PSEs. ■