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CCI penalises firms found guilty of bid rigging and cartelization in Indian Railways tenders

The Competition Commission of India (CCI) issued a final order against eleven (11) companies/ firms which were found to have contravened the provisions of Sections 3(3)(a), 3(3)(b), 3(3)(c) and 3(3)(d) read with Section 3(1) of the Competition Act, 2002 (Act), which proscribe anti-competitive agreements. The case was initiated on the basis of a reference filed on behalf of the North Western Railways.

CCI found these companies/ firms to have indulged in cartelisation in the supply of High Performance Polyamide Bushes (HPPA) and Self Lubricating Polyester Resin Bushes (SLPR) to the Indian Railways by means of directly or indirectly determining prices, allocating tenders, controlling supply and market, co-ordinating bid prices and manipulating the bidding process. The evidence in the matter included regular e-mail communications and WhatsApp exchanges between the parties, quoting of identical/ similar prices by certain parties, filing of bids from same IP addresses by certain parties in close proximity *etc.* Of the eleven (11) entities, four (04) were lesser penalty applicants before the CCI. Under Section 46 of the Act, a cartel member may approach the Commission by way of filing an application seeking lesser penalty, in return for providing full, true and vital disclosures in respect of the alleged cartel to the Commission.

Further, fourteen (14) individuals of these eleven (11) entities were also held by the CCI to be liable for the anti-competitive conduct of their respective companies/ firms, in terms of the provisions of Section 48 of the Act.

CCI imposed penalties @5% of the average turnover/ income upon the companies/ firms and their respective individuals found guilty of violating the provisions of the Act. Giving benefit of reduction in penalty under the provisions of Section 46 of the Act of 80% to first lesser penalty applicant and its individuals, 40% to second lesser penalty applicant, 30% to third lesser penalty applicant and its individuals, and 20% to fourth lesser penalty applicant and its individuals, CCI directed the parties to pay penalties totaling to approx. INR 1.16 crores, besides issuing a cease-and-desist order.

The order was passed in Ref. Case No. 03 of 2018 and a copy of the order is available at CCI website at www.cci.gov.in.
