



CCI imposes penalty on bidders for cartelisation in tenders of Indian Railways

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The Competition Commission of India (CCI) has imposed penalties on three firms for bid rigging of tenders floated by Indian Railways for procurement of Brushless DC fans in the year 2013.

A final order has been passed by CCI in a case taken up *suo moto* under Section 19 of the Competition Act, 2002 ('the Act') based on the information received from Central Bureau of Investigation, New Delhi.

CCI has held that the firms had shared the market by way of allocation of tenders of Indian Railways for Brushless DC fans amongst themselves under an agreement/ arrangement and indulged in bid rigging/ collusive bidding in contravention of the provisions of Section 3(3)(c) and 3(3)(d) read with Section 3(1) of the Act. The anti-competitive conduct of the firms has been established based on exchange of rates to be quoted in upcoming tenders amongst the errant firms, numerous calls amongst the key persons of these firms before and during the period of the tenders and admission by one of the firms which confirmed and revealed the existence and *modus operandi* of the cartel.

Accordingly, a penalty of Rs. 2.09 crores, Rs. 62.37 lakhs and Rs. 20.01 lakhs and was imposed on the firms M/s Western Electric and Trading Company, M/s Pyramid Electronics and M/s R. Kanwar Electricals respectively in terms of proviso to Section 27 (b) of the Act. While imposing penalty, Commission took into consideration all the relevant factors including the duration of the cartel, volume of the tender affected by the cartel and value thereof and decided to impose penalty on M/s Pyramid Electronics and M/s Western Electric and Trading Company calculated at 1.0 time of their profit respectively in the year 2012-13 and on M/s R. Kanwar Electricals at the rate of 3 percent of its turnover for the year 2012-13.

Additionally, considering the totality of facts and circumstances of the case, penalty was also imposed on persons-in charge of the three firms *i.e.*, Shri Sandeep Goyal of M/s Pyramid Electronics, Shri Ashish Jain of M/s R. Kanwar Electricals and Shri Ramesh Parchani of M/s Western Electric and Trading Company at the rate of 10 percent of the average of their income for the last three preceding financial years.

CCI had received an application under Section 46 of the Act read with Regulation 5 of the Competition Commission of India (Lesser Penalty) Regulations, 2009 from M/s Pyramid Electronics. This application was received when the investigation in the matter was in progress and the report from the DG was pending.

Considering the co-operation extended by M/s Pyramid Electronics in conjunction with the value addition provided by it in establishing the existence of cartel and the stage at which it had approached CCI, it was granted 75 percent reduction in the penalty than would otherwise have been imposed, had it not cooperated with the Commission. Accordingly, the penalty imposed on M/s Pyramid Electronics was reduced to Rs. 15.59 lakhs and penalty imposed on Shri Sandeep Goyal was reduced to Rs. 11,648 only.

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