



CCI issues order against CIL and its subsidiaries for abusing dominant position, imposes penalty

Posted On: 24 MAR 2017 7:23PM by PIB Delhi

The Competition Commission of India (CCI) has found Coal India Limited (CIL) and its subsidiaries to be in contravention of the provisions of Section 4(2)(a)(i) of the Competition Act, 2002 for imposing unfair/discriminatory conditions in Fuel Supply Agreements (FSAs) with the power producers for supply of non-coking coal.

The Final Order has been passed today on a batch of informations filed by Maharashtra State Power Generation Company Ltd. and Gujarat State Electricity Corporation Limited against Coal India Ltd. and its subsidiaries (Mahanadi Coalfields Ltd., Western Coalfields Ltd., South Eastern Coalfields Ltd.).

The Order has been passed by CCI pursuant to the directions issued by Competition Appellate Tribunal remanding the matter back while setting aside the original order of CCI in which a penalty of Rs. 1773.05 crore had been imposed upon CIL. After hearing the parties afresh in terms of the directions issued by Competition Appellate Tribunal, CCI held that CIL through its subsidiaries operates independently of market forces and enjoys dominance in the relevant market of production and supply of non-coking coal in India. CCI noted in the order that CIL did not evolve/ draft/ finalize the terms and conditions of FSAs through a bilateral process and the same were imposed upon the buyers through a unilateral conduct. CCI found CIL and its subsidiaries to be in contravention of the provisions of Section 4(2)(a)(i) of the Competition Act, 2002 for imposing unfair/discriminatory conditions in FSAs with the power producers for supply of non-coking coal.

Apart from issuing a cease and desist order against CIL and its subsidiaries, CCI has directed modification of FSAs in light of the findings and observations recorded in the order. The impugned clauses related to sampling and testing procedure, charging transportation and other expenses for supply of ungraded coal from the buyers, capping compensation for supply of stones *etc.* For effecting the modifications in FSAs, CIL has been ordered to consult all the stakeholders. CIL has also been directed to ensure uniformity between old and new power producers as well as between private and PSU power producers.

Further, CCI has imposed a penalty of Rs. 591.01 crore upon CIL for the abusive conduct. While reducing penalty, CCI noted the steps taken by CIL to improve the sampling procedure even post-passing of the original order by CCI. However, while holding the *extant* sampling procedure as unfair, CIL has been directed to incorporate suitable modifications in fuel supply agreements to provide for a fair and equitable sampling and testing procedure besides considering the feasibility of sampling at the unloading-end in consultation with power producers and adopting international best practices.

The common Order of the Commission has been passed in Case Nos. 03, 11 and 59 of 2012 and a copy thereof has been uploaded on the website of CCI at www.cci.gov.in.

DSM/KA

(Release ID: 1485656) Visitor Counter : 111

