
(2024) 01 CCI CK 0004

Competition Commission Of India

Case No: Case No. 29 Of 2023

Jarnail Singh

APPELLANT

Vs

Madhav KRG Ltd & Another

RESPONDENT

Date of Decision: Jan. 16, 2024

Acts Referred:

- Competition Act, 2002 - Section 4, 19(1)(a), 26(2)

Hon'ble Judges: Ravneet Kaur, Chairperson; Anil Agrawal, Member; Sweta Kakkad, Member

Bench: Full Bench

Judgement

Order under Section 26(2) of the Competition Act, 2002

1. The present Information has been filed by Mr. Jarnail Singh ('Informant') under Section 19(1)(a) of the Competition Act, 2002 (hereinafter, 'Act') alleging contravention of provisions of Section 4 of the Act by Madhav KRG Ltd ('OP-1') and Punjab Pollution Control Board ('OP-2') (collectively referred to as the 'Opposite Parties'/'OPs').
2. The Informant is a resident of Sec 5B, New Shastri Nagar, Mandi Gobindgarh, Punjab.
3. OP-1 is in the business of extracting zinc out of the pollution dust. OP-2 is the state pollution control board which has been entrusted with the task of implementation of environmental laws in the State of Punjab.

Facts and Allegations as stated in the Information

4. The Informant has stated that the steel induction furnaces produce pollution dust as a by-product of the core production process. The induction furnaces install Air Pollution Control Devices (APCD) as per the directions issued by Punjab Pollution Control Board. The APCDs, while controlling the pollution, produce pollution dust which has around 40

per cent of zinc by composition. Since, the pollution dust is treated by OP-2 as hazardous waste, very few entities, as stated, are allowed to purchase the same from the induction furnaces. The Informant further states that OP-2 imposes penalties if pollution dust is traded in open market.

5. According to the Informant, OP-1 is one such entity which is allowed by OP-2 to purchase pollution dust and is allegedly a dominant player. The induction furnaces have to sell pollution dust to it at a very low price and thereby, unduly profiting itself.

6. The Informant has also stated that OP-1, by virtue of its dominant position, used to purchase pollution dust at Rs. 8 per kg when zinc was priced at Rs. 325 per kg. Later, with the entry of two other entities, namely, M/s Jogindra Castings Pvt. Ltd. and R.P. Multimetals Pvt. Ltd., OP-1 and few other units started purchasing it at Rs. 20 per kg and later, at Rs. 25 per kg. The Informant states that given the content of zinc in the pollution dust, market value of the pollution dust is estimated to be around Rs. 40 per kg, which is significantly higher than what is offered to the induction furnaces. The Informant has alleged that OP-1, with the connivance of OP-2, is abusing its dominant position, in contravention of Section 4 of the Act.

7. The Informant has prayed for the Commission's directions to the relevant authorities to remove pollution dust from the category of hazardous waste, so that the prices can be determined by market forces rather than certain business entities. It has also prayed for fixation of lower limit at which the commodity can be traded and criminal action be taken, alongwith imposition of penalties, against OP-1 for violating the law.

8. In its meeting held on 10.01.2024, after perusing the Information available on record, the Commission decided to pass an appropriate order in due course.

Analysis of the Commission

9. The Commission notes that the Informant has alleged abuse of dominance by the OPs in the market for purchase of pollution dust from the induction furnaces, wherein OP-1, in connivance with OP-2, is making undue profits by extracting zinc from the pollution dust, procured from induction furnaces at low prices vis-à-vis market rate of zinc.

10. From the Information, it appears that OP-2, being a state pollution board, allows only certain entities to purchase pollution dust from the induction furnaces.

11. The Commission further observes that there has been entry of atleast two entities that purchase pollution dust. Further, the bills/invoices provided alongwith the Information indicate that the procurement price of pollution dust has increased from Rs. 8 per kg to Rs. 25 per kg. Accordingly, the Commission notes that in the facts and circumstances of the present case, more players coming into the market and increase

in procurement prices are indicative of greater competition.

12. The Commission also notes that there is no specific allegation against OP-2 in respect of violation of provisions of Section 4 of the Act.

13. Thus, the Commission is of the prima facie view that there is no competition concern arising in the present matter and therefore, the matter be closed forthwith under Section 26(2) of the Act.

14. The Secretary is directed to communicate the decision of the Commission to the Informant, accordingly.