

PRESS NOTE

Faced with the problem of cartelization among suppliers of Aluminium Phosphide Tablet (ALP) to FCI for the last 8 years, C&MD, FCI, had to take initiative at his personal level to report the matter to Chair Person, Competition Commission of India, New Delhi. It was reported that manufacturers of ALP have been quoting identical rates under anti-competitive agreement or understanding, defeating the very purpose of floating Tender Enquiry. It was also reported that the big manufacturers/suppliers were abusing their dominant position, compelling the other suppliers to quote the same rates as quoted by him/them.

As a result, price of ALP nearly doubled during the period 2007-09. It was also apprehended that the price of the fumigant is likely to rise in future as the suppliers know that this chemical is required in large quantities by FCI/CWC & State Agencies for fumigation of huge foodgrain stocks and presently there is no efficacious substitute for the fumigant.

The Competition Commission of India taking a suo-moto cognizance of the complaint of C&MD, FCI, ordered Director General on 24.2.2011 to investigate the matter under Section 26(1) of Competition Act.

The Director General, Competition Commission of India on investigation, has concluded that the manufacturers of ALP, namely; i) Agrosynth Chemicals Limited, Bangalore, ii) M/s Excel Crop Care Limited, New Delhi; iii) M/s United Phosphorus Limited, New Delhi; iv) M/s Sandhya organic Chemicals Pvt. Ltd., Mumbai, have acted in a concerted manner to eliminate the competition among themselves by indulging in collusive bidding in the tender for procurement of goods by FCI in 2009 and collectively boycotting the e-tenders floated by FCI in 2011, in violation of the provisions of Sections 3(3) (a), 3(3) (b) & 3(3) (d) read with Section 3(1) of the Competition Act.

The Commission after hearing both the parties i.e. complainant FCI and the manufacturers of ALP, passed following Order under Sector 27 of the Competition Act:-

- The Commission has found the act and conduct of the Opposite Parties as violative of the provisions of Section 3(3)(b) and Section 3(3) (d) of the Act. the Commission also finds that the act of the Opposite Parties of acting together and quoting identical prices has deprived FCI of competitive bid rates in matter of procurement of ALP Tablets.

Contd.

- Accordingly, the Commission decides to impose penalty at a rate of 9% on average of three years turnover on the three opposite parties under Section 27(b) of the Act as under:-

Name of Firms	2008-09	2009-10	2010-11	Average of Three years Turnover	Penalty at 9% of Average Turnover
Excell Crop Care Limited	730.43	650.82	749.01	710.09	63.90
Sandhya Organics Chemicals Pvt. Ltd.	13.41	21.13	18.01	17.52	1.57
United Phosphorus Limited	2542.16	2738.98	3133.71	2804.95	252.44

- The Commission also directs the Opposite Parties to 'cease and desist' from engaging in practices of manipulating process of bidding in any manner.

Fresh e-tender for purchase of ALP has been floated through CeG Portal of Govt. of Karnataka on 10.4.2012 and last date for receipt of bid is 8.5.2012.