

## **SEMESTER-II**

### **LM-104-COMPETITION LAW CREDIT-4**

## **TOPIC-7: CONCEPT OF LENIENCY UNDER COMPETITION LAW AND LESSER PENALTY REGULATION**

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## **INTRODUCTION**

- In order to trace some anti-competitive agreements the Competition Commission is empowered with the tool of imposing lesser penalty in comparison to what is provided under law or what is imposed upon other co-doers.
- Criminal law is the origination of this instrument in which the Government approvers are imposed with less or no sentence.
- In Anti-Competitive agreements when any party to it, helps the commission in the investigation or itself informs the commission, the commission gives relaxation in imposition of fine on it.
- This tool not only increases prosecution of competition law abuses but also encourages the participants to disclose these activities.

### **POWER TO IMPOSE LESSER PENALTY [SECTION 46]**

- In the Competition Act 2002 the Commission has power to impose lesser penalty under section 46.
- It provides that the Commission may, impose upon any producer, seller, distributor, trader or service provider included in any cartel, which is alleged to have violated section 3, a lesser penalty as it may deem fit, than leviable under this Act or the rules or the regulations.

### **CONDITIONS FOR LESSER PENALTY:**

1. Such producer, seller, distributor, trader or service provider has made a full disclosure in respect of the alleged violations
2. The disclosure is true.
3. The disclosure is vital.

- Vital disclosure means full and true disclosure of information or evidence by the applicant to the Commission, which is sufficient to enable the Commission to form a *prima-facie* opinion about the existence of a cartel or which helps to establish the contravention of the provisions of section 3 of the Act.<sup>1</sup>
4. The report of investigation directed under section 26 has not been received before making of such disclosure.
  5. The person making the disclosure should continue to cooperate with the Commission till the completion of the proceedings before the Commission.
  6. The Commission may, if it is satisfied that such producer, seller, distributor, trader or service provider included in the cartel had in the course of proceedings,—
    - (a) not **complied with the condition** on which the lesser penalty was imposed by the Commission; or
    - (b) had given **false evidence**; or
    - (c) the disclosure made is **not vital**,and thereupon such producer, seller, distributor, trader or service provider may be tried for the offence with respect to which the lesser penalty was imposed and shall also be liable **full penalty**.

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<sup>1</sup> Section 1 (i) Competition Commission of India (Lesser Penalty) Regulations, 2009

## **THE COMPETITION COMMISSION OF INDIA (LESSER PENALTY) REGULATIONS, 2009**

- The Competition Commission of India in exercise of the powers conferred by Section 64, read with Section 46 and clause (b) of section 27 of the Competition Act, 2002 made the Competition Commission of India (Lesser Penalty) Regulations, 2009.
- Section 3 of the Regulations provides conditions for lesser penalty provides that an applicant, seeking the benefit of lesser penalty under section 46 of the Act, shall-
  1. Cease to have **further participation** in the cartel from the time of its disclosure unless otherwise directed by the Commission;
  2. Provide **vital** disclosure in respect of contravention of the provisions of section 3 of the Act;
  3. Provide all **relevant information**, documents and evidence as may be required by the Commission;
  4. Co-operate **genuinely, fully, continuously and expeditiously** throughout the investigation and other proceedings before the Commission; and
  5. **Not conceal, destroy, manipulate or remove** the relevant documents in any manner that may contribute to the establishment of a cartel.
  6. Where the applicant<sup>2</sup> is an enterprise, it shall also provide the **names of the individuals** who have been involved in the cartel on

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<sup>2</sup> Section 1 (b) Competition Commission of India (Lesser Penalty) Regulations, 2009: 'applicant' means an enterprise, as defined in clause (h) of section 2 of the Act, who is or was a member of a cartel and includes an individual who has been involved in the cartel on behalf of an enterprise, and submits an application for lesser penalty to the Commission.

its behalf and for whom lesser penalty is sought by such an enterprise.

- Where an applicant fails to comply with these conditions, the Commission shall be **free to use the information** and evidence submitted by the applicant, in accordance with the provisions of section 46 of the Act.
- The Commission may subject the applicant to **further restrictions** or conditions, as it may deem fit, after considering the facts and circumstances of the case.
- The discretion of the Commission, in regard to reduction in monetary penalty under these regulations, shall be exercised having due regard to –
  - (a) the **stage** at which the applicant comes forward with the disclosure;
  - (b) the evidence **already in possession** of the Commission;
  - (c) the **quality of the information** provided by the applicant; and
  - (d) the **entire facts and circumstances** of the case.

#### **4. GRANT OF LESSER PENALTY:**

Lesser Penalty shall be granted in the following manner, namely;—

- (a) The applicant and individuals may be granted benefit of reduction in penalty **upto or equal to one hundred percent**, if
  1. the applicant is the **first** to make a vital disclosure by submitting evidence of a cartel, enabling the Commission to form a *prima-facie* opinion regarding the existence of a cartel which is alleged to have contravened the provisions of section 3 of the Act and

2. The Commission **did not**, at the time of application, have **sufficient evidence** to form such an opinion:

Provided that the Commission may also grant benefit of reduction in penalty up to or equal to one hundred per cent, to the applicant and individual mentioned in sub-regulation (1A) of regulation 3, if the applicant is the first to make a vital disclosure by submitting such evidence which establishes the contravention of the provisions of section 3 of the Act, by a cartel, in a matter under investigation and the Commission, or the Director General did not, at the time of application, have sufficient evidence to establish such a contravention.

(b) The applicants who are **subsequent to the first applicant** may also be granted benefit of reduction in penalty on making a disclosure by submitting evidence, which in the opinion of the Commission, may provide significant **added value** to the evidence already in possession of the Commission or the Director General, as the case may be, to establish the existence of the cartel, which is alleged to have contravened the provisions of section 3 of the Act.

**‘Added value’** means the extent to which the evidence provided **enhances the ability** of the Commission or the Director General, as the case may be, to establish the existence of a cartel, which is alleged to have contravened the provisions of section 3 of the Act.

(c) The reduction in monetary penalty shall be in the following order:

- (i) the applicant and individual mentioned in sub-regulation (1A) of regulation 3 marked as **second** in the priority status may be granted reduction of monetary penalty up to or equal to **fifty percent** of the full penalty leviable; and

(ii) the applicant and individual mentioned in sub-regulation (1A) of regulation 3 marked as **third or subsequent** in the priority status may be granted reduction of penalty up to or equal to **thirty percent** of the full penalty leviable.

|  |                           |
|--|---------------------------|
| Applicant disclosing firstly                 | 100% reduction in penalty |
| Applicant disclosing secondly                | 50% reduction in penalty  |
| Applicant disclosing thirdly or subsequently | 30% reduction in penalty  |

#### **5. PROCEDURE FOR GRANT OF LESSER PENALTY:**

- For the purpose of grant of lesser penalty, the applicant or its authorized representative may make an application containing all the material information as specified in the Schedule, or may contact, orally or through e-mail or fax, the **designated authority** for furnishing the information and evidence relating to the existence of a cartel. The designated authority shall, thereafter, within **five working days**, put up the matter before the Commission for its consideration.
- The Commission shall thereupon mark the **priority status of the applicant** and the designated authority shall convey the same to the applicant either on telephone, or through e-mail or fax.
- If the information received is **oral or through e-mail or fax**, the Commission shall direct the applicant to submit a **written application** containing all the material information as specified in the Schedule within a period not exceeding **fifteen days**.

- The date and time of receipt of the application by the Commission shall be the date and time as **recorded by the designated authority** or as recorded on the **server** or the facsimile transmission machine of the designated authority.
- Where the application, along with the necessary documents, is not received within a period of fifteen days from the date of communication of direction or during the further period as may be extended by the Commission, the applicant may **forfeit its claim for priority status and consequently for the benefit of grant of lesser penalty**.
- The Commission, through its designated authority, shall **provide written acknowledgement** on the receipt of the application informing the priority status of the application but merely on that basis, it shall not entitle the applicant for grant of lesser penalty.
- Unless the evidence submitted by the first applicant has been **evaluated**, the **next applicant shall not** be considered by the Commission.
- Where the Commission is of the opinion that the applicant or its authorized representative, seeking the benefit of lesser penalty or priority status, has **not provided full and true** disclosure of the information and evidence as referred and described in the Schedule or as required by the Commission, from time to time, the Commission may take a decision after considering the facts and circumstances of the case for **rejecting the application** of the applicant, but before doing so the Commission shall provide an **opportunity of hearing** to such applicant.
- Where the benefit of the priority status is not granted to the first applicant, the **subsequent applicants shall move up in order of priority** for grant of priority status by the Commission and the procedure prescribed above, as in the case of **first applicant**, shall apply *mutatis mutandis*.



- The decision of the Commission of granting or rejecting the application for lesser penalty shall be **communicated** to the applicant.

## 6. CONFIDENTIALITY:

Notwithstanding anything contained in the Competition Commission of India (General) Regulations, 2009,

- The Commission or the Director General shall treat as confidential,—

(a) the **identity** of the applicant; and

(b) the **information, documents and evidence** furnished by the applicant under regulation 5:

Provided that the identity of the applicant or such information or documents or evidence may be **disclosed if**,—

- (i) The disclosure is **required by Law**; or
- (ii) The applicant has **agreed to such disclosure in writing**; or
- (iii) There has been a **public disclosure** by the applicant

Provided further that where the Director General deems it necessary to disclose the information, documents and evidence furnished under Regulation 5 to any party for the **purposes of investigation** and the applicant has not agreed to such disclosure, the Director General may disclose such information, documents and evidence to such party

for reasons to be recorded **in writing** and after taking **prior approval of the Commission.**

## **6A INSPECTION OF DOCUMENTS:**

- Notwithstanding the confidentiality under regulation 6, the provisions of sub-regulations (1), (3) and (4) of regulation 37<sup>3</sup> and the provisions of regulation 50<sup>4</sup> of the Competition Commission of India (General) Regulations, 2009, ***to the extent they relate to inspection, shall become applicable to the non-confidential version of the information, documents and evidence furnished by the applicant under regulation 5, after the Commission forwards a copy of the report containing the findings of the Director General to the party concerned***

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<sup>3</sup>**37. Inspection and certified copies of documents.** – (1) Subject to the provisions of Section 57 and regulation 35, a party to any proceeding of an ordinary meeting of the Commission may on an application in writing in that behalf, addressed to the Secretary, **be allowed to inspect or obtain copies of the documents or records submitted during proceedings** on payment of fee as specified in regulation 50.

Provided further that no request for inspection or certified copies of **internal documents** shall be allowed.

(3) An inspection shall be allowed **only in the presence of an officer** so authorized by the Secretary:

Provided that the inspection of documents or copying thereof as per sub-regulation (1) or sub-regulation (2) shall be allowed under the **supervision of and subject to the time limits** to be specified by the Secretary or an officer authorized by him in this behalf.

(4) An **officer of the Central or State Government or the Director General or a statutory authority** shall be allowed inspection and obtain copies of documents or records mentioned in sub-regulation (1) on making **written request** to the Secretary for the purpose.

<sup>4</sup> **50. Inspection and copying charges.** – (1) A party to the proceedings, on application, may be **allowed inspection of records** relating to its case by the Secretary, on such conditions as may be specified, on payment of rupees **one thousand per day per case.**

(2) Copying charges for the parties to the proceedings shall be rupees **twenty per page.**

- Provided that such party shall not disclose the information, documents and evidence so obtained other than for the proceedings under the Act.

**7. REMOVAL OF DIFFICULTY:** In the matter of interpretation or implementation of the provisions of these regulations, if any doubt or difficulty arises, the same shall be placed before the Commission and the **decision of the Commission thereon, shall be binding.**

## **CONTENTS OF THE APPLICATION (SCHEDULE)**

The application for lesser penalty shall, inter-alia, include the following, namely;-

1. **name and address of the applicant** or its authorized representative as well as of all other enterprises in the cartel;
2. in case the applicant is based outside India, the **address of the applicant in India** for communication including the telephone numbers and the e- mail address, etc. ;
3. a detailed description of the **alleged cartel arrangement**, including its aims and objectives and the details of activities and functions carried out for securing such aims and objectives;
4. the **goods or services involved**;
5. the **geographic market covered**;
6. the commencement and **duration of the cartel**;
7. the estimated **volume of business** affected in India by the alleged cartel;

8. the **names, positions, office locations and, wherever necessary, home addresses of all individuals** who, in the knowledge of the applicant, are or have been associated with the alleged cartel, including those individuals which have been involved on behalf of the applicant ;

9. the details of **other Competition Authorities**, forums or courts, if any, which have been **approached** or are intended to be approached in relation to the alleged cartel;

10. a descriptive **list of evidence** regarding the nature and content of evidence provided in support of the application for lesser penalty; and

11. any **other material information** as may be directed by the Commission.

## RELEVANT CASE LAW

- ***IN RE: CARTELISATION BY BROADCASTING SERVICE PROVIDERS BY RIGGING THE BIDS SUBMITTED IN RESPONSE TO THE TENDERS FLOATED BY SPORTS BROADCASTERS SUO MOTU CASE NO. 02 OF 2013 DECIDED ON 11/07/2018***

This case emanated from a Lesser Penalty Application filed by **Globecast India Private Limited** (OP-2) and **Globecast Asia Private Limited** (OP-3) [OP-2 and OP-3 collectively referred to as **Globecast**] on 11.01.2013 under Section 46 of the Competition Act, 2002 (Act) read with the Competition Commission of India (Lesser Penalty) Regulations, 2009 (Lesser Penalty Regulations), providing information in relation to its **bid rigging arrangement** with **Essel Shyam Communication Limited** (OP-1/ ESCL) in the market for provision of broadcasting services. As per information provided to the Commission, **ESCL's name was changed to Planetcast Media Services Limited**. However, for purposes of consistency it is referred to as ESCL in this order. Thus, all references to ESCL would imply reference to Planetcast Media Services Limited. (emphasis supplied)

As per the information received, there was **exchange of commercial and confidential price sensitive information** between ESCL and Globecast through Mr. Bharat K. Prem (OP-4/ Bharat), an employee of OP-2, which resulted in bid rigging of tenders for procurement broadcasting services of various sporting events, especially during the year 2011-12. It was alleged that OP-4 had clandestinely entered into a Consultancy Agreement with ESCL, under which Bharat, though an employee of OP-2, used to work for ESCL for a fixed remuneration and a share in profits from the contracts obtained through

bid rigging. Jason Yeow (OP-5/ Jason), an employee of OP-3, was also alleged to be involved with ESCL and Bharat in this case.

Based on the information received and a preliminary analysis of the matter, the Commission was of prima facie view that **there existed a bid-rigging cartel** between ESCL and Globecast in contravention of the provisions of Section 3(3)(d) read with Section 3(1) of the Act. Accordingly, the Commission vide order dated 19.02.2013 passed under Section 26 (1) of the Act directed the Director General (DG) to cause an investigation into the matter and submit a report on the same.

During the course of investigation, ESCL also filed application under Regulation 5 of the Lesser Penalty Regulations read with Section 46 of the Act on 11.07.2013.

**Evaluation of Lesser Penalty Applications:** As mentioned earlier, the Commission received Lesser Penalty Applications from ESCL as well as Globecast in the present matter. Keeping in view the sequence in which they approached the Commission under Regulation 5 of Lesser Penalty Regulations read with Section 46 of the Act, it granted First Priority Status to Globecast and Second Priority Status to ESCL.

The Commission observes that Globecast, the first applicant to file Lesser Penalty Application, made vital disclosure by submitting evidence of the alleged cartel and enabled the Commission to form a prima facie opinion regarding existence of the cartel. At the time the Lesser Penalty Application was filed by Globecast, the Commission did not have evidence to form such an opinion. Globecast furnished various vital evidences in the matter which disclosed the modus operandi of the cartel such as the details of sporting events and chronology of the related events in which bid rigging took place, role of ex- employees of Globecast, internal inquiry conducted by Globecast at Singapore, email correspondence in relation to preparation and submission of bids in

concerted manner, email correspondence showing sharing of commercially sensitive and confidential price information, forensic report related to the electronic evidences and the mirror image of the confiscated laptops, mobiles etc. and email correspondence in relation to draft consultancy agreement between ESCL and Bharat. These evidences were found crucial in establishing the contravention of the provisions of Section 3 of the Act in the matter.

The Commission finds that Globecast co-operated fully and continuously throughout the investigation and other proceeding before the Commission. However, it is observed that initially it did not disclose the fact regarding strategic investment talk between ESCL and Globecast during the alleged period and attributed such omission to a mistake on their part stating that the same was not disclosed as according to them this had no link with the alleged Suo Motu Case No.02 of 2013 Page 55 of 57 conduct. However, subsequently they furnished all related documents such as NDA, email correspondence etc.

ESCL filed the Lesser Penalty Application after receiving the notice from the office of DG. Thus, at the time ESCL approached the Commission, the Commission had already made a prima facie opinion and referred the matter to DG for investigation. It is noted that ESCL furnished evidence of proposed acquisition/ strategic investments by Globecast in ESCL, relationship between Globecast and ESCL from 2009-2012, signing of NDA, correspondence with Globecast for proposed acquisition, correspondence with Bharat for various events, teaming agreement between Globecast and ESCL, evidence of concerted action i.e. emails exchanged with clients and competitors and copy of the consultancy agreement entered by them with Bharat.

It is observed that in addition to corroborating the evidences furnished by Globecast, ESCL also furnished additional facts such as the

proposed acquisition talks between Globecast and ESCL and related evidences such as copy of NDA and correspondence exchanged in this regard. Though these are not found vital to the establishment of the conduct of bid-rigging, they are still important as the same disclosed one of the factors in the background of which information exchange in violation of the provisions of the Act took place between the parties. The evidences furnished by ESCL, therefore, added value to the ongoing investigation.

Based on the aforesaid evaluation of the evidences and information furnished by Globecast and ESCL, the Commission decides to grant 100% (Hundred percent) reduction in leviable penalty to Globecast and 30% (Thirty Percent) reduction in leviable penalty to ESCL.

- ***IN RE: CARTELISATION IN RESPECT OF ZINC CARBON DRY CELL BATTERIES MARKET IN INDIA SUO MOTU CASE NO. 02 OF 2016 DECIDED ON 19/04/2018***

**Evaluation of Applications for Lesser Penalty**

The Commission received Lesser Penalty Applications from OP-1, OP-2 and OP-3 in the matter. Keeping in view the sequence in which they approached the Commission under Regulation 5 of Lesser Penalty Regulations read with Section 46 of the Act, it granted First Priority Status to OP-3, Second Priority Status to OP-1 and Third Priority Status to OP-2.

The Commission observes that the information and evidence provided by OP-3, first applicant to file Lesser Penalty Application, was crucial in assessing the domestic market structure of the zinc-carbon dry cell batteries, nature and extent of information exchanges amongst OPs with regard to the cartel and identifying the names, locations and email



accounts of key persons of OPs actively involved in the cartel activities. The information and cooperation received from OP-3 enabled the DG to conduct search and seizure operations at the premises of the Manufacturers and seize quality evidence in the form of emails, handwritten notes and various other documents. Thus, full and true disclosure of information and evidence and continuous cooperation provided by OP-3, not only enabled the Commission to order investigation into the matter, but it also helped in establishing the contravention of Section 3 of the Act by.

With respect to the Lesser Penalty Applications of OP-1 and OP-2, the Commission notes that incriminating documents (both hard and soft copies) recovered and seized from the premises of the Manufacturers during the search and seizure operations on 23 August 2016 were independently sufficient to establish the contravention of Section 3 of the Act by OPs. Therefore, information/ evidence on cartel including the period of cartel, submitted by OP-1 and OP-2 did not result in ‘significant value addition’ as is claimed by them in their submissions. But, the Commission also notes that both OP-1 and OP-2 have provided genuine, full, continuous and expeditious cooperation during the course of investigation in the present case.

On the basis of the foregoing, the Commission decides, as follows:

(a) The Commission grants reduction of 100 (hundred) percent of the penalty leviable under the Act, to OP-3.

(b) The Commission observes that OP-1, who is second in making a disclosure in this case, approached the Commission not at the beginning but at a later stage of the investigation, i.e. three days after the search and seizure operations had been carried out by the DG. OP-1 has

claimed that the disclosures made in its Lesser Penalty Application regarding product involved, commencement/duration of cartel, membership of Geep in AIDCM, modus operandi of cartel, evidence of role of AIDCM and involvement of certain individuals such as Shri Osamu Oyamada etc. demonstrated that it had met the requirements of 'significant value addition'. On careful examination of the material submitted by OP-1, the Commission finds that almost all disclosures made by OP-1 were available with the Commission/ DG Suo Motu Case No. 02 of 2016 Page 29 of 39 either as disclosures by OP-3 or material obtained by DG during search and seizure operation. However, OP-1 through several oral statements supported by contemporaneous documents, corroborated information already in possession of the DG and helped connect the evidence gathered during the search and seizure operations. Taking into account these factors, priority status as well as continuous and expeditious cooperation extended by OP-1 including admission of cartelisation, the Commission decides to grant 30 (Thirty) percent reduction in the penalty to OP-1 than what would otherwise have been imposed on it had it not cooperated with the Commission and admitted to the cartelisation.

(c) The Commission notes that OP-2, who is third in making a disclosure in this case, has also through several oral statements supported by contemporaneous documents, corroborated certain information already in possession of the DG and explained the evidence gathered during the search and seizure operations. However, the Applicant approached

the Commission not at the beginning but after nearly three weeks of the search and seizure operations of the DG. Taking into account these factors, the priority status granted and continuous and expeditious co-operation extended by OP-2 including admission of cartelisation, the Commission decides to grant 20 (Twenty) percent reduction in the penalty to OP-2 than what would otherwise have been imposed on it had it not cooperated with the Commission and admitted to the cartelisation.

• ***NAGRIK CHETNA MANCH VS FORTIFIED SECURITY SOLUTIONS CASE NO. 50 OF 2015 DECIDED ON 01/05/2018***

The Competition Commission of India (CCI) passed final order imposing penalty on six firms - Fortified Security Solutions (Fortified), Ecoman Enviro Solutions Pvt. Ltd. (Ecoman), Lahs Green India Pvt. Ltd. (Lahs Green), Sanjay Agencies, Mahalaxmi Steels ( Mahalakshmi) and Raghunath Industry Pvt. Ltd. (Raghunath) for bid rigging/ collusion in five tenders floated by Pune Municipal Corporation during the period December 2014 to March 2015 for “Design, Supply, Installation, Commissioning, Operation and Maintenance of Municipal Organic and Inorganic Solid Waste Processing Plant(s)”. Under the provisions of Section 46 of the Competition Act, 2002 (‘the Act’) read with the Competition Commission of India (Lesser Penalty) Regulations, 2009 (‘Lesser Penalty Regulations’) CCI reduced penalty on four bidders i.e. Mahalakshmi, Lahs Green, Sanjay Agencies and Ecoman.<sup>5</sup>

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<sup>5</sup> Press Information Bureau, Government of India, Ministry of Corporate Affairs, 02-May-2018 10:45 IST, Lesser Penalty Provisions aid CCI to bust cartel in tenders of Pune Municipal Corporation; Available at: <https://pib.gov.in/newsite/PrintRelease.aspx?relid=179043> last accessed 18/04/2020

The case against these firms was initiated on the basis of an information filed under Section 19(1)(a) of the Act by Nagrik Chetna Manch. During investigation, all six firms approached CCI as lesser penalty applicants.

From the evidence gathered during the investigation, CCI found that there was bid rigging/ collusive bidding in the Tender nos. 34, 35, 44, 62 and 63 of 2014 for 'Design, Supply, Installation, Commissioning, Operation and Maintenance of Municipal Organic and Inorganic Solid Waste Processing Plant(s)' in contravention of Section 3(3)(d) read with Section 3(1) of the Act. Further, CCI also found meeting of mind and co-ordination between various individuals which included the proprietor/ partner/ director of the firms to rig the tenders by way of submitting proxy/ cover bids.<sup>6</sup>

Considering contravention of provisions of the Act, an amount of INR 13.07 Lakhs, INR 45.20 Lakhs, INR 42 Lakhs, INR 1.51 Crores, INR 3.36 Crores and INR 30.55 Lakhs was computed as leviable penalty on six firms namely Fortified, Ecoman, Lahs Green, Sanjay Agencies, Mahalakshmi and Raghunath, respectively, in terms of Section 27 (b) of the Act. CCI imposed penalty on firms at the rate of 10 percent of their profit for the years 2012-13, 2013-14 and 2014-15 i.e. three years preceding the year in which collusion took place. Additionally, considering totality of facts and circumstances of the case, penalty leviable on individual officials of four firms namely Ecoman, Lahs Green, Sanjay Agencies and Raghunath was computed at the rate of 10 percent of their average income for the same three years. No penalty was imposed on individuals of Fortified and Mahalakshmi as these are proprietorship firms.<sup>7</sup>

Keeping in view the modus operandi of the cartel, the stage at which the lesser penalty application was filed, the evidences gathered by the DG independent of Lesser Penalty Application and co-operation extended in

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<sup>6</sup> Supra Note 5

<sup>7</sup> *Ibid*

conjunction with the value addition provided in establishing the existence of cartel, CCI granted Mahalaksmi and Lahs Green and their individuals 50 percent reduction in penalty than otherwise leviable on them. Sanjay Agencies and Ecoman, along with their individuals, were granted 40 and 25 percent reduction in penalty respectively. Pursuant to reduction, penalty imposed on Mahalkshmi was INR 1.68 crore, on Lahs Green was INR 21 Lakh, on Sanjay Agencies was INR 90.64 Lakh and on Ecoman was INR 33.90 Lakhs.<sup>8</sup>

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<sup>8</sup> Supra Note 5