



COMPETITION COMMISSION OF INDIA

Case No. 50 of 2015

In re:

Nagrik Chetna Manch

Informant

And

Fortified Security Solutions

Ecoman Enviro Solutions Pvt. Ltd.

Pune Municipal Corporation

Lahs Greens India Pvt. Ltd.

M/s Sanjay Agencies

Mahalaxmi Steels

Raghunath Industry Pvt. Ltd.

Opposite Party No. 1

Opposite Party No. 2

Opposite Party No. 3

Opposite Party No. 4

Opposite Party No. 5

Opposite Party No. 6

Opposite Party No. 7

WITH

Suo Motu Case No. 03 of 2016

In re: Cartelisation in Tender Nos. 21 of 2013 and 28 of 2013 of Pune Municipal Corporation for Solid Waste Processing

Against

- 1. Saara Traders Pvt. Ltd.**
- 2. Ecoman Enviro Solutions Pvt. Ltd.**
- 3. Fortified Security Solutions**
- 4. Raghunath Industry Pvt. Ltd.**

CORAM

Ms. Ravneet Kaur

Chairperson

Mr. Anil Agrawal

Member

Ms. Sweta Kakkad

Member

Mr. Deepak Anurag

Member



PRESENT

For Fortified Security Solutions, Ecoman Enviro Solutions Pvt. Ltd., Raghunath Industry Pvt. Ltd., Shri Bipin Vijay Salunke, Sole Proprietor of Fortified Security Solutions and Managing Director of Ecoman Enviro Solutions Pvt. Ltd., and Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd. : Shri Rishabh Jaitley, Advocate

For Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd. : None

For M/s Sanjay Agencies and its Partner Shri Sanjay Harakchand Gule : Ms. Aditi Sharma, Advocate

For Mahalaxmi Steels : Shri Kartik Nagarkatti, Advocate

For Saara Traders Pvt. Ltd. and its Director Shri Deepak Bhaskar : Ms. Aditi Sharma, Advocate
Phatangare

ORDER UNDER SECTION 27 OF THE COMPETITION ACT, 2002

Facts:

1. Information in Case No. 50 of 2015 was filed by Nagrik Chetna Manch, a public charitable trust, through its President Retd. Major General SCN Jatar, under Section 19(1)(a) of the Competition Act, 2002 (the 'Act'), against Fortified Security Solutions, Ecoman Enviro Solutions Pvt. Ltd. and Pune Municipal Corporation, alleging bid-rigging/ collusive-bidding by Fortified Security Solutions and Ecoman Enviro Solutions Pvt. Ltd. in various tenders issued by Pune Municipal Corporation for 'Design, Supply, Installation, Commissioning, Operation and Maintenance of Municipal Organic and Inorganic Solid Waste Processing Plant(s)', during December 2014 to March 2015, in contravention of the provisions of Section 3 of the Act.
2. Upon consideration of the Information, and after holding a Preliminary Conference with the Informant and the three named Opposite Parties, the Commission passed an



order dated 29.09.2015 under Section 26(1) of the Act forming a *prima facie* opinion that Fortified Security Solutions and Ecoman Enviro Solutions Pvt. Ltd. along with M/s Sanjay Agencies and Mahalaxmi Steels seem to have indulged in bid-rigging/ collusive bidding in Tender Nos. 34, 35, 44, 62 and 63 of 2014 issued by Pune Municipal Corporation for Municipal Organic and Inorganic Solid Waste Processing Plant(s), in contravention of the provisions of Section 3(3) read with Section 3(1) of the Act. Accordingly, the Director General ('DG') was directed to cause an investigation to be made into the matter and submit an investigation report. The DG was also directed to look into the conduct of the other bidders as well, who have not been specifically named in the Information received and to look into the role, if any, of the persons/ officials of the bidders, who were in-charge of and responsible for the conduct of their businesses at the time of the alleged contravention and/ or who might have consented to or otherwise connived in respect of the alleged contravention or to whose neglect, such alleged contravention may be attributable.

3. The DG, during the course of its investigation into the matter, found involvement of a few other bidders in the alleged conduct as well as found the alleged conduct to be prevalent in a couple of more tenders. As such, it moved a note before the Commission to add a couple of more tenders and a few more Opposite Parties in Case No. 50 of 2015.
4. Based on the note of the DG, the Commission, *vide* order dated 28.06.2016, added four new Opposite Parties *viz.* Lahs Greens India Pvt. Ltd., M/s Sanjay Agencies, Mahalaxmi Steels and Raghunath Industry Pvt. Ltd. in Case No. 50 of 2015.
5. Further, based on the note of the DG, the Commission also passed another order dated 11.08.2016 under Section 26(1) of the Act with *Suo Motu* Case No. 03 of 2016 forming a *prima facie* opinion that four entities *viz.* Saara Traders Pvt. Ltd., Ecoman Enviro Solutions Pvt. Ltd., Fortified Security Solutions and Raghunath Industry Pvt. Ltd., had indulged in bid-rigging/ collusive bidding in Tender Nos. 21 and 28 of 2013 issued by Pune Municipal Corporation, in contravention of the provisions of Section 3(3)(d) of the Act. In this matter also, the DG was directed to look into the role, if any, of the persons/ officials of the bidders, who were in-charge of and responsible for the conduct of their businesses at the time of the alleged contravention and/ or who might have



consented to or otherwise connived in respect of the alleged contravention or to whose neglect, such alleged contravention may be attributable.

6. During the course of pendency of both investigations before the DG, the Commission received applications under Section 46 of the Act from the following Opposite Parties:
 - From Saara Traders Pvt. Ltd. who became lesser penalty applicant no. 1 in Tender Nos. 21 and 28 of 2013 in *Suo Motu* Case No. 03 of 2016;
 - From Mahalaxmi Steels who became lesser penalty applicant no. 1 in Tender Nos. 62 and 63 of 2014 in Case No. 50 of 2015;
 - From M/s Sanjay Agencies who became lesser penalty applicant no. 2 in Tender Nos. 62 and 63 of 2014 in Case No. 50 of 2015;
 - From Lahs Greens India Pvt. Ltd. who became lesser penalty applicant no. 1 in Tender Nos. 34, 35 and 44 of 2014 in Case No. 50 of 2015;
 - From Ecoman Enviro Solutions Pvt. Ltd. who became lesser penalty applicant no. 3 in Tender Nos. 62 and 63 of 2014 and lesser penalty applicant no. 2 in Tender Nos. 34, 35 and 44 of 2014 in Case No. 50 of 2015, and who became lesser penalty applicant no. 2 in Tender Nos. 21 and 28 of 2013 in *Suo Motu* Case No. 03 of 2016;
 - From Raghunath Industry Pvt. Ltd. who became lesser penalty applicant no. 4 in Tender Nos. 62 and 63 of 2014 and lesser penalty applicant no. 3 in Tender Nos. 34, 35 and 44 of 2014 in Case No. 50 of 2015, and who became lesser penalty applicant no. 3 in Tender Nos. 21 and 28 of 2013 in *Suo Motu* Case No. 03 of 2016; and
 - From Fortified Security Solutions, who became lesser penalty applicant no. 4 in Tender Nos. 34, 35 and 44 of 2014 in Case No. 50 of 2015.
7. Upon completion of investigation in Case No. 50 of 2015, the DG submitted its investigation report on 23.11.2016, finding bid-rigging/ collusive bidding in all the five tenders by the six named Opposite Parties (except Pune Municipal Corporation) in contravention of Section 3(3)(d) read with Section 3(1) of the Act. The DG also identified five individuals of these entities to be liable in terms of Section 48 of the Act.
8. Further, upon completion of investigation in *Suo Motu* Case No. 03 of 2016, the DG submitted its investigation report on 28.12.2016 finding bid-rigging/ collusive bidding



in both the tenders, by the four named Opposite Parties in contravention of the provisions of Section 3(3)(d) read with Section 3(1) of the Act. The DG also identified four individuals of these entities to be liable in terms of Section 48 of the Act.

9. Thereafter, *vide* separate orders dated 30.08.2017, the Commission forwarded the respective investigation reports to the respective parties in both cases *i.e.* the Informant, the named Opposite Parties and their individuals identified by the DG (**'Parties'**), giving them an opportunity to file their objections/ suggestions, if any, to the investigation report forwarded to them, and also directed the Opposite Parties to furnish their audited financial statements including balance sheets and profit and loss accounts for last three financial years (**'FYs'**) as well as their individuals to furnish their income details including income tax returns (**'ITRs'**) for last three FYs.
10. Upon receipt of such documents, the Commission heard certain parties in both the matters on 16.11.2017 and the remaining parties agreed that there will not be any further hearing in the matters. However, the parties were granted liberty to file their written submissions in the matters. Upon receipt of such written submissions, the Commission passed two final orders in the matters as follows:
 - 10.1 In Case No. 50 of 2015, the Commission passed a final order dated 01.05.2018 under Section 27 of the Act, finding all Opposite Parties (except Pune Municipal Corporation) guilty of bid-rigging/ collusive bidding in Tender Nos. 34, 35, 44, 62 and 63 of 2014 issued by the Pune Municipal Corporation, in contravention of the provisions of Section 3(3)(d) read with Section 3(1) of the Act. Five individuals of these Opposite Parties, as identified by the DG, were also held liable for the conduct of their respective entities, in terms of Section 48 of the Act. Accordingly, such parties were directed to cease and desist from indulging into such anti-competitive conduct in future, and penalties were imposed upon them.
 - 10.2 Similarly, in *Suo Motu* Case No. 03 of 2016, the Commission passed a final order dated 31.05.2018 under Section 27 of the Act, finding all four Opposite Parties guilty of bid-rigging/ collusive bidding in Tender Nos. 21 and 28 of 2013 issued by the Pune Municipal Corporation, in contravention of the provisions of Section 3(3)(d) read with Section 3(1) of the Act. Four individuals



of these Opposite Parties, as identified by the DG, were also held liable for the conduct of their respective entities, in terms of Section 48 of the Act. Accordingly, such parties were directed to cease and desist from indulging into such anti-competitive conduct in future, and penalties were imposed upon them.

11. The penalties imposed upon the Opposite Parties and their respective individuals by the Commission in both the matters, after granting to them the benefit of lesser penalty under Section 46 of the Act, were as follows:

In Case No. 50 of 2015

Party	Calculation of penalty	Lesser Penalty benefit	Penalty imposed (INR)
Fortified Security Solutions	@10% of average turnover of last 3 financial years	<i>Nil</i>	13,07,240
Ecoman Enviro Solutions Pvt. Ltd.		25%	33,90,500
Lahs Greens India Pvt. Ltd.		50%	21,00,258
M/s Sanjay Agencies		40%	90,63,874
Mahalaxmi Steels		50%	1,68,10,166
Raghunath Industry Pvt. Ltd.		<i>Nil</i>	30,54,943
Shri Bipin Vijay Salunke, Managing Director of Ecoman Enviro Solutions Pvt. Ltd.	@10% of average income of last 3 financial years	25%	72,500
Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd.		25%	34,605
Shri Saiprasad S. Prabhukhanolkar, Director of Lahs Greens India Pvt. Ltd.		50%	18,213
Shri Sanjay Harakchand Gule, Partner at M/s Sanjay Agencies		40%	1,38,570
Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd.		<i>Nil</i>	97,480



In Suo Motu Case No. 03 of 2016

Party	Calculation of penalty	Lesser Penalty benefit	Penalty imposed (INR)
Saara Traders Pvt. Ltd.	@10% of average turnover of last 3 financial years	50%	23,22,631
Ecoman Enviro Solutions Pvt. Ltd.		Nil	33,00,078
Fortified Security Solutions		Nil	11,00,541
Raghunath Industry Pvt. Ltd.		Nil	26,40,940
Shri Deepak Bhaskar Phatangare, Director of Saara Traders Pvt. Ltd.	@10% of average income of last 3 financial years	50%	74,513
Shri Bipin Vijay Salunke, Managing Director of Ecoman Enviro Solutions Pvt. Ltd.		Nil	82,667
Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd.		Nil	33,092
Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd.		Nil	1,06,923

12. Challenging the aforesaid orders dated 01.05.2018 and 31.05.2018 passed by the Commission, the penalised Opposite Parties of both the matters and their concerned individuals filed appeals before the Hon'ble National Company Law Appellate Tribunal ('NCLAT'). The Hon'ble NCLAT, *vide* its judgment and order dated 23.12.2022, dismissed the appeals of Fortified Security Solutions, Ecoman Enviro Solutions Pvt. Ltd., and Raghunath Industry Pvt. Ltd. as well as their individuals for non-prosecution. On merits of the matters, the Hon'ble NCLAT opined that sufficient evidence was brought on record to show formation of cartelisation by the appellants in influencing the tenders in contravention of the provisions of Section 3(3)(d) of the Act read with Section 3(1) thereof. Besides evidence, by way of filing lesser penalty applications, all the appellants had already accepted their guilt. However, with respect to penalty, the Hon'ble NCLAT expressed its opinion as follows:

“though CCI is empowered to take turnover upto 10% but while taking up such percentage i.e. maximum as prescribed in the Act, it was required for the CCI to elaborately assign reason for coming to the conclusion for maximum penalty. It may not be held that CCI in no case can impose higher penalty upto 10%, but in such situation it would be required for the CCI to afford full opportunity to the concerned party to address the CCI as to why such higher penalty may not be imposed. On going through the impugned order, we find no indication as to whether the appellants were asked to explain regarding exemplary penalty i.e. maximum 10% or detailed reasons has been assigned for the same. It is true that in respect of imposing penalty discretion has been given to the CCI, but at the same time it is settled that discretion may not be exercised indiscreet manner. We are of the opinion that though discretionary jurisdiction may not be interfered with, but in view of facts and circumstances particularly the fact that discretion by the CCI in the present case has not been exercised in a reasonable manner, it would be a fit case for remanding back the matter to CCI to examine the issue to afford opportunity to the appellants to address on the point as to whether instead of exemplary penalty i.e. upper limit of 10%, the appellants are entitled to get the said percentage reduced or not. Without interfering with the merit of the case, the appeals are remitted back to the CCI to reconsider the penalty in view of observations given hereinabove and pass appropriate order in accordance with law after giving full opportunity to the appellants on the point of penalty.”

13. Against the aforesaid order passed by the Hon’ble NCLAT, the Commission filed four Civil Appeals before the Hon’ble Supreme Court, on the limited aspect of remanding back the matters to reconsider the penalty imposed. In one of such appeals bearing Civil Appeal No. 1825/ 2023, the Opposite Party Lahs Green India Pvt. Ltd. filed an Interlocutory Application (‘IA’) No. 62755/ 2024 pleading discharge from Case No. 50 of 2015 before the Commission by depositing the penalty amount imposed upon it by the Commission *vide* order dated 01.05.2018. The said appeals filed by the Commission stand dismissed on 16.12.2024 and 19.02.2025; however, the Hon’ble Supreme Court, *vide* its order dated 16.12.2024, with respect to the above IA of Lahs Green India Pvt. Ltd. observed that *“The penalty imposed may be deposited by Respondent No. 6, Lahs Green India Pvt. Ltd. On deposit of the penalty, no further order, pursuant to the remand, will be passed against Respondent No. 6”*.



14. Accordingly, the order dated 23.12.2022 passed by the Hon'ble NCLAT stood final. Hence, pursuant to the observations of the Hon'ble NCLAT, communications were issued to all parties (except the Informant, Pune Municipal Corporation, Lahs Green India Pvt. Ltd. and its concerned individual *viz.* Shri Saiprasad Sharadchandra Prabhukhanolkar, Director) in May and July, 2025 for conducting fresh hearings on the quantum of penalty. The communication addressed to Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd., in May 2025, shows delivered to the addressee in the postal tracking report; however, the communication addressed to him on the same address in July 2025, returned undelivered. Thereafter, fresh hearings on the quantum of penalty to be imposed in the matters was held on 13.08.2025 and the Commission decided to pass an appropriate order in the matters in due course. The parties were also given liberty to file written arguments within a period of 02 (two) weeks, which were filed by certain parties and are taken on record.
15. It is noted that Shri Saiprasad Sharadchandra Prabhukhanolkar, Director of Lahs Green India Pvt. Ltd. has already deposited the penalty amount imposed on it *vide* order dated 01.05.2018, on 17.08.2018; however, Lahs Green India Pvt. Ltd. on which penalty of ₹21,00,258 (Rupees Twenty One Lac Two Hundred Fifty Eight Only) was imposed, has made only part-payment of the penalty amount imposed upon it *viz.* of ₹10,00,000 (Rupees Ten Lac), on 16.08.2018. Based on the submission made by it before the Hon'ble Supreme Court *vide* its IA No. 62755/ 2024 filed in Civil Appeal No. 1825/ 2023, Lahs Green India Pvt. Ltd. has failed to deposit the remaining penalty amount of ₹11,00,258 (Rupees Eleven Lacs Two Hundred and Fifty Eight Only), along with the due interest in terms of the Notice of Demand and the Recovery Certificate issued to it.

Submissions of Parties

16. In their objections/ suggestions to the investigation reports submitted by the DG, during the course of oral arguments, and in their written arguments, the parties have, *inter alia*, made the following submissions with respect to penalty:

16.1 Fortified Security Solutions, Ecoman Enviro Solutions Pvt. Ltd., Raghunath Industry Pvt. Ltd., Shri Bipin Vijay Salunke, Sole Proprietor of Fortified Security Solutions and Managing Director of Ecoman Enviro Solutions Pvt. Ltd., and Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd.



- (a) In terms of the judgment of the Hon'ble Supreme Court in *Excel Crop Care Ltd. v. CCI*, (2017) 8 SCC 47 ('**Excel Crop Care Case**'), penalty, if any, may only be imposed upon the relevant income earned by the answering parties *qua* 'Design, Supply, Installation, Commissioning, Operation and Maintenance of Municipal Organic and Inorganic Solid Waste Processing Plant(s)' and not on their entire annual income.
- (b) The answering parties do not deserve imposition of maximum penalty upon them, as this would be highly disproportionate. Reliance is placed on order dated 25.02.2013 passed by the erstwhile Hon'ble Competition Appellate Tribunal ('**CompAT**') in *MDD Medical Systems India Private Limited v. Foundation for Common Cause and People Awareness and Others* wherein the Hon'ble CompAT, *inter alia*, directed the Commission to consider the aggravating and mitigating circumstances while imposing penalties.
- (c) Following mitigating factors should also be considered:
- (i) The objective of the alleged cartelisation was *bona fide* and the acts of the answering parties have not caused any appreciable adverse effect on competition within India or any loss to the exchequer. Due to the alleged conduct of answering parties, the bids floated in the form of subject-tenders were not extended and procurement was successful without any issues.
 - (ii) There is no finding of the Commission that the alleged conduct of the answering parties has caused any hindrance in the participation of other possible bidders or foreclosed the market for other competitive activities.
 - (iii) No consideration of any nature was received by the answering parties.
 - (iv) The answering parties have had no prior involvement in any cartelisation.
- (d) Maximum reduction in penalty should be granted based on the following:
- (v) The answering parties provided holistic information about the cartel in their respective lesser penalty applications which added substantial value to the investigation.



- (vi) The answering parties co-operated on a continuous basis throughout the investigation, and provided all evidence in their possession or available to them.
- (e) Benefit should also be given to the answering parties of 'leniency plus' as they had disclosed about bid-rigging in three other tenders which were not within the knowledge of the Commission till lesser penalty applications were filed by the answering parties.

16.2 M/s Sanjay Agencies and its Partner Shri Sanjay Harakchand Gugle

- (a) M/s Sanjay Agencies, engaged in the pharmaceutical business, only provided its documents for the purposes of participation in Tender Nos. 62 and 63 of 2014 of Pune Municipal Corporation for Municipal Solid Waste Processing Plants, to Shri Bipin Vijay Salunke, as a kind-gesture, on his request, as Shri Bipin Vijay Salunke was a very close friend of Shri Ranjit Gugle, nephew of Shri Sanjay Harakchand Gugle, one of the partners of M/s Sanjay Agencies. No consideration in lieu of the same was received. The same is also evident from the Affidavit of Shri Ranjit Gugle. Such participation was made simply with the intent of increasing the number of bidders in the said tenders. In fact, even the participation amounts of M/s Sanjay Agencies were later on returned to it by Ecoman Enviro Solutions Pvt. Ltd., in which Shri Bipin Vijay Salunke was a Director. Shri Bipin Vijay Salunke is also the proprietor of Fortified Security Solutions. M/s Sanjay Agencies was unaware of the consequences of such participation. There was no 'cartelisation' or 'meeting of minds' by M/s Sanjay Agencies with any other Opposite Party.
- (b) The 'relevant turnover' of M/s Sanjay Agencies, in terms of the judgment of Excel Crop Care Case, is *nil* as it is not in the business of Solid Waste Management at all but rather in the pharmaceuticals business *i.e.* trading of medicines, cosmetics, and other related goods.
- (c) M/s Sanjay Agencies and its Partner Shri Sanjay Harakchand Gugle have provided full co-operation and assistance to the DG and the Commission in the matter. Being lesser penalty applicant no. 2 in Case No. 50 of 2015 w.r.t. Tender Nos. 62 and 63 of 2014, M/s Sanjay Agencies provided significant



value addition to the DG's investigative process. As such, it ought to be granted the maximum reduction in penalty amount, if any, imposed upon it.

16.3 Mahalaxmi Steels

- (a) Mahalaxmi Steels is a sole proprietorship firm which is a dealer of steel, cement *etc.* It only allowed a proxy bid to be given of its name in Tender Nos. 62 and 63 of 2014 at the behest of the proprietor's brother-in-law Shri Rajesh Goyal, who was on close friendly terms with Shri Bipin Vijay Salunke, Director at Ecoman Enviro Solutions Pvt. Ltd. as well as proprietor of Fortified Security Solutions, as a familial obligation. This was to increase the number of bidders in the said tender. It was authorised by Raghunath Industry Pvt. Ltd., another company in which persons related to Shri Bipin Vijay Salunke were members of the Board (including his father Shri Vijay Raghunath Salunke), as its distributor for the said purpose.
- (b) The proprietor of Mahalaxmi Steels, Shri Manoj Gupta, had no direct contact or connection with Shri Bipin Vijay Salunke and Mahalaxmi Steels was neither promised, nor received any consideration or benefit for such participation. Mahalaxmi Steels only provided documents for the purpose of the said bid and transferred funds for participation to the account of Shri Vijay Raghunath Salunke, the father of Shri Bipin Vijay Salunke. These funds were also returned to Mahalaxmi Steels post conclusion of the tender. All such facts can be confirmed from the evidence on record and the Affidavit of Shri Rajesh Goyal as well.
- (c) The demand drafts for the tender submitted on behalf of Mahalaxmi Steels were debited from the account of Shri Vijay Raghunath Salunke and Smt. Sulabha Vijay Salunke. Shri Vijay Raghunath Salunke was also a Director at Ecoman Enviro Solutions Pvt. Ltd., and the father of Shri Bipin Vijay Salunke. Smt. Sulabha Vijay Salunke is the wife of Shri Vijay Raghunath Salunke. Even the mobile no. for Mahalaxmi Steels as its contact person, was given of Shri Parimal Salunke, an official of Ecoman Enviro Solutions Pvt. Ltd.
- (d) Mahalaxmi Steels has carried on business in an ethical and upright manner. It has never been involved in any other legal or investigative proceedings except



the present one. It had no role to play in the alleged cartel post March 2015, where before also, its role was limited to lending its name for participation as a proxy bidder in certain tenders. At the time of its involvement, Mahalaxmi Steels did not realise the ramifications of its actions and as such, expresses unqualified regret for the same.

- (e) All and any act committed by Mahalaxmi Steels, in contravention of the provisions of the Act, was on account of ignorance and as soon as Mahalaxmi Steels got to know of its contravention, it filed a lesser penalty application with the Commission, making full, true and vital disclosures regarding its conduct.
- (f) The acts of Mahalaxmi Steels in co-operating with Shri Bipin Vijay Salunke were only aimed at pre-empting the extension of time period for the submission of bids in the impugned tenders, thereby increasing the chances of Ecoman Enviro Solutions Pvt. Ltd. to secure the contract. As the requirements of technical qualification for participation in the impugned tenders was quite broad, and the manner of submissions of bids was electronic, any act of Mahalaxmi Steels could neither have excluded/ prevented other genuine bidders from participating in the impugned tenders, nor ensured that only Ecoman would emerge as the successful bidder in the impugned tenders.
- (g) The activities of Mahalaxmi Steels cannot amount to an infringement of the provisions of Section 3(3) of the Act as it was not engaged in “*identical or similar trade of goods or provision of services*” as the other Opposite Parties.
- (h) The ‘relevant turnover’ of Mahalaxmi Steels in terms of the judgment of Excel Crop Care Case, is also *nil* as it does not manufacture, trade, or deal in any manner with Solid Waste Management but is rather a dealer of steel, cement *etc.*
- (i) Mahalaxmi Steels has also suffered enough during the course of the present proceedings including loss of reputation due to breach of confidentiality and as such, imposition of any further penalty upon it would be unfair.
- (j) Being lesser penalty applicant no. 1 in Case No. 50 of 2015 w.r.t. Tender Nos. 62 and 63 of 2014, Mahalaxmi Steels provided credible evidence to the DG during investigation which has been relied upon by the DG while giving its



findings. Prior to its lesser penalty disclosures, the DG only had circumstantial evidence in its possession; however, as part of its lesser penalty application, Mahalaxmi Steels disclosed the aims and objectives of the alleged cartel as well as the *modus operandi* of the alleged cartel, which clearly shows the substantial value addition made by Mahalaxmi Steels. It has also extended genuine, full and expeditious co-operation to the DG and made full, true and vital disclosures before the Commission post filing of its lesser penalty application. It also did not conceal, destroy, manipulate or remove any relevant document in any manner, that may have aided the present matter. As such, it ought to be granted the maximum reduction *i.e.* 100%, in penalty amount, if any, imposed upon it.

16.4 Saara Traders Pvt. Ltd. and its Director Shri Deepak Bhaskar Phatangare

- (a) Being lesser penalty applicant no. 1 in *Suo Motu* Case No. 03 of 2016 *w.r.t.* Tender Nos. 21 and 28 of 2013, Saara Traders Pvt. Ltd. and its Director Shri Deepak Bhaskar Phatangare provided relevant and material information which helped the DG to conclusively determine the existence of a cartel. Full disclosures were made about the anti-competitive activities of Shri Bipin Vijay Salunke, Director at Ecoman Enviro Solutions Pvt. Ltd. and proprietor of Fortified Security Solutions, of manipulating the tender process of Pune Municipal Corporation along with Shri Parimal Salunke, revealing the *modus operandi* of the alleged cartel. Saara Traders Pvt. Ltd. and Shri Deepak Bhaskar Phatangare also extended full cooperation to the DG during the course of investigation. The information provided by Saara Traders Pvt. Ltd. and its Director constitutes full, true and vital disclosures that enabled the DG to substantiate its findings in relation to the alleged cartel. As such, they should be granted the maximum reduction in penalty amount, if any, imposed upon then which is upto 100%.
- (b) Saara Traders Pvt. Ltd. is engaged in trading business of laptops, computers, LCDs, medical instruments and some electronic spares and accessories. It was only a dummy bidder in 02 (two) tenders and did not participate in any other Solid Waste Management tender issued by Pune Municipal Corporation pre or



post October, 2013. It gave such proxy bids only to help out Shri Deepak Bhaskar Phatangare's friend Shri Bipin Vijay Salunke, increase the number of bidders in the said tenders. It was not awarded any such tender. It did not monetarily or otherwise benefit in any manner through any anti-competitive practice perpetrated by Shri Bipin Vijay Salunke. Both Saara Traders Pvt. Ltd. and its Director regret their actions and undertake not to repeat such actions in future.

Analysis:

17. At the outset, it is noted that the Competition Commission of India has, on 06.03.2024, notified the Competition Commission of India (Determination of Monetary Penalty) Guidelines, 2024 (**'Penalty Guidelines'**). Guideline No. 3 of the Penalty Guidelines provides that the Commission shall, for the purposes of determination of penalty, if any, to be imposed under Section 27(b) of the Act, begin its consideration with the 'relevant turnover' of the enterprise concerned. However, where the determination of 'relevant turnover' is not feasible, the Commission may consider the global turnover of the enterprise concerned, derived from all products and services, for the purpose of determination of the amount of penalty. Thereafter, the penalty amount shall be determined, having due regard to the various aggravating and mitigating factors mentioned under the said Guideline.
18. It is seen that several entities which participated in the bid-rigging arrangement were cover bidders and were not even present in the impugned relevant market of Solid Waste Management business. As such, their 'relevant turnover' in terms of the Penalty Guidelines would be *nil*. However, as noted by the Commission in its final orders dated 01.05.2018 and 31.05.2018, in the facts of the present cases, where such parties have admittedly submitted cover bids but are not engaged in solid waste management *i.e.* the activity relating to which bid-rigging has taken place, interpretation of 'turnover' as 'relevant turnover' in terms of the Excel Crop Care Case would not be appropriate as this would imply that either no penalty would be leviable on certain parties who had indulged in cover bidding, or they would be penalised more harshly on their global turnover than their counterparts who may have comparatively less relevant turnover but have in fact abetted as well as participated in the bid-rigging arrangement. Either way, determination of the penalty amounts on the basis of 'relevant turnover' would lead to



an inequitable result creating an anomalous situation that would render the objectives of the Act infructuous. As such, the Commission, in terms of the Penalty Guidelines, decided to consider the 'global turnover' of the erring entities, for the purpose of determination of the amount of penalty to be imposed upon them, in the present matters.

19. It is noted that the entire bid-rigging arrangement in the present matters has been proven to be at the behest of Shri Bipin Vijay Salunke, Sole Proprietor of Fortified Security Solutions and Managing Director of Ecoman Enviro Solutions Pvt. Ltd. assisted by his father Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd. Together, these persons and entities rigged not only one or two, but rather at least seven tenders issued by the Pune Municipal Corporation over a period of two years. Further, they also got other entities, viz. M/s Sanjay Agencies, Mahalaxmi Steels and Saara Traders Pvt. Ltd., who were not even involved in the business of Solid Waste Processing, to be a part of their bid-rigging arrangement, with the sole intent of manipulating the impugned tenders and ensure failure of competitive bidding process therein. All these entities have also categorically admitted their respective roles in the bid-rigging arrangement, by way of filing lesser penalty applications, and have received due reduction in the penalty amounts imposed upon them, in this regard.
20. It has been argued on behalf of these parties that their conduct was only to lead to successful completion of the said tenders without any extension of due date and their conduct has not caused appreciable adverse effect on competition within India, or any loss to the public exchequer, as there were no other lower rates bidders. It has been submitted that there is no finding of the Commission, that the alleged conduct of these parties has caused any hindrance in the participation of other possible bidders or foreclosed the market for other competitive activities. They are first time offenders and have also, being lesser penalty applicants, admitted their guilt, as well as expressed regret for their actions in ignorance of the law.
21. The Commission notes that Fortified Security Solutions participated in Tender Nos. 21 and 28 of 2013 as well as Tender Nos. 34, 35 and 44 of 2014, while Ecoman Enviro Solutions Pvt. Ltd. participated in all of the aforesaid five tenders as well as Tender Nos. 62 and 63 of 2014. Though Raghunath Industry Pvt. Ltd. was not a direct participant in any of the rigged tenders, it, *inter alia*, provided authorisation letters to



- Fortified Security Solutions and Mahalaxmi Steels to fulfill the eligibility criteria, enabling them to participate in the rigged tenders.
22. Evidently, all acts done by the aforesaid three parties were with the intent of getting the impugned tenders awarded to Ecoman Enviro Solutions Pvt. Ltd. thereby manipulating the entire bidding process and enabling illegal gains. It is a well settled principle of law that *ignorantia juris non excusat*, and as such, expressing regret at a later stage when caught does not help the case of these erring parties. As far as their plea of being first time offender is concerned, the Commission notes that they could be a first-time offender when they indulged in bid-rigging/ collusive bidding in the first impugned tender, but when they indulged into such illegal acts in a repeated fashion in multiple tenders, it is inappropriate to plead mitigation on this ground, at the stage of computation of penalty.
23. As far as the other three entities who were cover bidders *i.e.* M/s Sanjay Agencies, Mahalaxmi Steels and Saara Traders Pvt. Ltd. are concerned, these entities, through their individuals, willingly provided their documentation to Shri Bipin Vijay Salunke for the purpose of submission of cover bids on their behalf, in one or more of the impugned tenders. M/s Sanjay Agencies and Mahalaxmi Steels were cover bidders in Tender Nos. 62 and 63 of 2014 while Saara Traders Pvt. Ltd. was a proxy bidder in Tender Nos. 21 and 28 of 2013. All these three entities are not small entities but rather M/s Sanjay Agencies is engaged in the pharmaceutical business, Mahalaxmi Steels is a dealer of steel, cement *etc.*, and Saara Traders Pvt. Ltd. is engaged in trading business of laptops, computers, LCDs, medical instruments and some electronic spares and accessories. These entities, despite not being present in the relevant market of Solid Waste Processing, engaged in the egregious conduct of cover bidding resulting in loss to exchequer, and have categorically admitted their roles in their respective lesser penalty applications, for which they have received due reduction in the penalty amounts imposed upon them.
24. In their case also, *ignorantia juris non excusat*, and after getting caught for their illegal misdemeanors, these entities cannot be allowed to plead that they indulged in illegal conduct simply to oblige their friends and family.
25. In the Commission's orders dated 31.05.2018 and 01.05.2018, the reduction in penalty was already done considering the mitigating factors including: cooperation with

investigation on a continuous basis, providing critical disclosures regarding *modus operandi* of the cartel, information about involvement of other entities/ individuals, role played in the cartel, extent of value addition made in establishing the cartel, and stages at which the Opposite Parties approached the Commission.

26. Thus, the Commission notes that the OPs *namely* M/s Sanjay Agencies, Mahalaxmi Steels and Saara Traders Pvt. Ltd. had no presence in the market concerned and were therefore not in a position to make relevant quotations in terms of the tender specifications. However, at the behest of family and friends in a market about which they had little or no idea, and to manipulate the public procurement process, they indulged in bid rigging/ collusive bidding not only in the first impugned tender but also repeatedly participated in such egregious conduct.
27. After considering the egregious nature of conduct and their repeated participation in illegal practices, the Commission, in terms of the Penalty Guidelines, decides to compute for all the six entities *viz.* Fortified Security Solutions, Ecoman Enviro Solutions Pvt. Ltd., Raghunath Industry Pvt. Ltd., M/s Sanjay Agencies, Mahalaxmi Steels and Saara Traders Pvt. Ltd., maximum penalty in terms of Section 27(b) of the Act *i.e.* @ 10% of their average global turnover, for the preceding three FYs, as follows:

Fortified Security Solutions in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	TURNOVER
2012-13	2,56,55,868
2013-14	46,55,000
2014-15	89,06,332
Total	3,92,17,200
Average	1,30,72,400
Penalty	13,07,240

Fortified Security Solutions in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	TURNOVER
2011-12	27,05,348
2012-13	2,56,55,868
2013-14	46,55,000
Total	3,30,16,216
Average	1,10,05,405
Penalty	11,00,541



Ecoman Enviro Solutions Pvt. Ltd. in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	TURNOVER
2012-13	4,55,65,642
2013-14	4,73,92,830
2014-15	4,26,61,501
Total	13,56,19,973
Average	4,52,06,658
Penalty	45,20,666

Ecoman Enviro Solutions Pvt. Ltd. in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	TURNOVER
2011-12	60,43,875
2012-13	4,55,65,642
2013-14	4,73,92,830
Total	9,90,02,347
Average	3,30,00,782
Penalty	33,00,078

Raghunath Industry Pvt. Ltd. in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	TURNOVER
2013-14	2,64,09,403
2014-15	3,46,89,461
Total ¹	6,10,98,864
Average	3,05,49,432
Penalty	30,54,943

Raghunath Industry Pvt. Ltd. in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	TURNOVER
2013-14	2,64,09,403
Total ¹	2,64,09,403
Average	2,64,09,403
Penalty	26,40,940

¹ Raghunath Industry Pvt. Ltd. has submitted its turnover for FYs 2013-14 and 2014-15 only stating that it was incorporated on 24.06.2013 and its first FY was 2013-14.

M/s Sanjay Agencies in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	TURNOVER
2012-13	14,88,53,862
2013-14	14,42,12,012
2014-15	16,01,27,863
Total	45,31,93,737
Average	15,10,64,579
Penalty	1,51,06,457

Mahalaxmi Steels (In ₹) in Case No. 50 of 2015

FINANCIAL YEAR	TURNOVER
2012-13	43,99,75,649
2013-14	29,27,32,614
2014-15	27,59,01,706
Total	1,00,86,09,969
Average	33,62,03,323
Penalty	3,36,20,332

Saara Traders Pvt. Ltd. in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	TURNOVER
2011-12	4,64,52,619
Total ²	4,64,52,619
Average	4,64,52,619
Penalty	46,45,262

28. Further, considering factors similar to the ones considered while computing penalty amounts for their concerned enterprises, the Commission also decides to compute penalty under Section 27(b) of the Act for individuals Shri Bipin Vijay Salunke, Managing Director of Ecoman Enviro Solutions Pvt. Ltd., Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd., Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd., Shri Sanjay Harakchand Gugle, Partner of M/s Sanjay Agencies, and Shri Deepak Bhaskar Phatangare, Director of Saara Traders Pvt. Ltd., @ 10% of their average income, for the three preceding FYs, as follows:

² Saara Traders Pvt. Ltd. has submitted its turnover for FY 2011-12 only stating that it has been non-operational and virtually defunct since 2013.



Shri Bipin Vijay Salunke in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	INCOME ³
2012–13	11,00,000
2013–14	12,00,000
2014–15	6,00,000
Total	29,00,000
Average	9,66,667
Penalty	96,667

Shri Bipin Vijay Salunke in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	INCOME ³
2011-12	1,80,000
2012–13	11,00,000
2013–14	12,00,000
Total	24,80,000
Average	8,26,667
Penalty	82,667

Shri Parimal Salunke in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	INCOME
2012–13	1,41,221
2013–14	4,72,083
2014–15	7,70,900
Total	13,84,204
Average	4,61,401
Penalty	46,140

Shri Parimal Salunke in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	INCOME
2011-12	3,79,672
2012–13	1,41,221
2013–14	4,72,083
Total	9,92,976
Average	3,30,992
Penalty	33,092

³ Salary income from Ecoman Enviro Solutions Pvt. Ltd.



Shri Vijay Raghunath Salunke in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	INCOME
2012–13	7,95,899
2013–14	17,09,425
2014–15	4,19,093
Total	29,24,417
Average	9,74,806
Penalty	97,480

Shri Vijay Raghunath Salunke in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	INCOME
2011-12	7,02,375
2012–13	7,95,899
2013–14	17,09,425
Total	32,07,699
Average	10,69,233
Penalty	1,06,923

Shri Sanjay Harakchand Gugle in Case No. 50 of 2015 (In ₹)

FINANCIAL YEAR	INCOME
2012–13	23,37,154
2013–14	16,34,279
2014–15	29,57,075
Total	69,28,508
Average	23,09,503
Penalty	2,30,950

Shri Deepak Bhaskar Phatangare in *Suo Motu* Case No. 03 of 2016 (In ₹)

FINANCIAL YEAR	INCOME
2011–12	19,78,847
2012-13	10,01,655
2013-14	Not Available
Total	29,80,502
Average	14,90,251
Penalty	1,49,025

29. Upon the aforesaid computed penalty amounts, the Commission decides to grant to the aforesaid six entities and their five individuals, lesser penalty as granted *vide* orders



dated 01.05.2018 and 31.05.2018, which has not been interfered with by the Hon'ble NCLAT, as follows:

Party	Penalty computed (In ₹)	Benefit of Lesser penalty	Penalty Imposed (In ₹)
Fortified Security Solutions	24,07,781	<i>Nil</i>	24,07,781
Ecoman Enviro Solutions Pvt. Ltd.	78,20,744	25% in Case No. 50 of 2015	66,90,578
Raghunath Industry Pvt. Ltd.	56,95,883	<i>Nil</i>	56,95,883
M/s Sanjay Agencies	1,51,06,457	40%	90,63,874
Mahalaxmi Steels	3,36,20,332	50%	1,68,10,166
Saara Traders Pvt. Ltd.	46,45,262	50%	23,22,631
Shri Bipin Vijay Salunke, Managing Director of Ecoman Enviro Solutions Pvt. Ltd.	1,79,334	25% in Case No. 50 of 2015	1,55,167
Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd.	79,232	25% in Case No. 50 of 2015	67,697
Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd.	2,04,403	<i>Nil</i>	2,04,403
Shri Sanjay Harakchand Gule, Partner at M/s Sanjay Agencies	2,30,950	40%	1,38,570
Shri Deepak Bhaskar Phatangare, Director of Saara Traders Pvt. Ltd.	1,49,025	50%	74,513

30. As such, the penalty amounts imposed upon and payable by the aforesaid (11) eleven parties, are as follows:

(In ₹)

Sl. No.	Name of the Party	Penalty Imposed	Penalty Imposed in Words
1.	Fortified Security Solutions	24,07,781	Rupees Twenty-Four Lac Seven Thousand Seven Hundred and Eighty-One Only
2.	Ecoman Enviro Solutions Pvt. Ltd.	66,90,578	Rupees Sixty-Six Lac Ninety Thousand Five Hundred and Seventy-Eight Only
3.	Raghunath Industry Pvt. Ltd.	56,95,883	Rupees Fifty-Six Lac Ninety-Five Thousand Eight Hundred



Sl. No.	Name of the Party	Penalty Imposed	Penalty Imposed in Words
			and Eighty-Three Only
4.	M/s Sanjay Agencies	90,63,874	Rupees Ninety Lac Sixty-Three Thousand Eight Hundred and Seventy-Four Only
5.	Mahalaxmi Steels	1,68,10,166	Rupees One Core Sixty-Eight Lacs Ten Thousand One Hundred and Sixty-Six Only
6.	Saara Traders Pvt. Ltd.	23,22,631	Rupees Twenty-Three Lac Twenty-Two Thousand Six Hundred and Thirty-One Only
7.	Shri Bipin Vijay Salunke, Managing Director of Ecoman Enviro Solutions Pvt. Ltd.	1,55,167	Rupees One Lac Fifty-Five Thousand One Hundred and Sixty-Seven Only
8.	Shri Parimal Salunke, Executive Director of Ecoman Enviro Solutions Pvt. Ltd.	67,697	Rupees Sixty-Seven Thousand Six Hundred and Ninety-Seven Only
9.	Shri Vijay Raghunath Salunke, Director of Raghunath Industry Pvt. Ltd.	2,04,403	Rupees Two Lac Four Thousand Four Hundred and Three Only
10.	Shri Sanjay Harakchand Gugle, Partner of M/s Sanjay Agencies	1,38,570	Rupees One Lac Thirty-Eight Thousand Five Hundred and Seventy Only
11.	Shri Deepak Bhaskar Phatangare, Director of Saara Traders Pvt. Ltd.	74,513	Rupees Seventy-Four Thousand Five Hundred and Thirteen Only

31. The parties mentioned in the table above are directed to deposit the respective penalty amounts within 60 days of the receipt of the present order.
32. Further, Lahs Green India Pvt. Ltd. is also directed to deposit its remaining penalty amount of ₹11,00,258 (Rupees Eleven Lac Two Hundred and Fifty Eight Only) along with accrued interest till the date of payment in accordance with Notice of Demand and Recovery Certificate issued to it, within 60 days of the receipt of the present order.



33. The Secretary is directed to forward a certified copy of the present order to all the parties, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 10.11.2025