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NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination November -December 2024

Semester: U.G. VIIIth Semester

Subject: Competition Law

Time: Three Hours

Marks: 100

Instructions:

- (1) The question paper contains six (06) questions out of which the student must attempt any five (05). Question (1) is compulsory.
- (2) No materials, aids and instruments are permitted, in this examination.
- (3) Students must start each answer by clearly identifying to which question they are responding.
- (4) All questions carry equal marks

Q. 1) In 2014, Mrs. N.Kataria complained to the CCI in 2014 about JAL Ltd, claiming that the company had violated Section 4 of the Act. She claimed that JAL, a real estate company, had created real estate developments in a number of locations around India's Noida and Greater Noida regions throughout the years. These consisted of private residences, townhomes, villas, and apartments. On January 19, 2011, Mrs. Kataria booked a villa (Unit No. 5/9) at Jaypee Greens, Greater Noida, with a super area of 5700 sq. ft. and a basement of 500 sq. ft. for ₹4.05 crore. She paid 95% of the total consideration before the due date. The Provisional Allotment Letter (PAL) issued by JAL had several discrepancies. It did not mention certain facilities like complimentary golf memberships or properly specify the total area and additional basement space. Later, JAL demanded extra charges for this basement space. Besides, the Informant was not told that additional construction beyond the agreed area would be charged @ Rs. 7105 per sq. ft. A significant delay in handing over possession of the property occurred. The contract stipulated that the villa would be delivered within 18 months, but possession was only offered eight months late, on November 9, 2013.

Despite the informant writing numerous letters pointing out these deficiencies, JAL did not accede, resulting in additional costs beyond what the informant anticipated to incur. JAL insisted that although the Provisional Letter of Allotment did not mention these details, the letter is a standardised text and the omitted details about the basement area were in-built in the transaction as reflected in the sale brochure. Having failed to settle, the informant sought recourse to the CCI.

Examine the abovementioned facts with the help of decided case laws and answer the following:

- a. What factors should the Commission consider while engaging in delineation of relevant market?
 - b. Whether undue delay in possession of villa and imposition of additional charges and penalty not stipulated in the Agreement constitute 'exploitative' conduct under section 4(2)(a)1 of the Act?
- (Marks: 10 + 10 = 20)



Q. 2) What constitutes 'dominance' under section 4 of the Competition Act 2002? What are the different factors and tests that are employed by Commission to inquire into an alleged abuse of dominance by an enterprise? Examine with the help of decided case laws. (Marks: 20)

Q. 3) Examine the utility of Herfindahl-Hirschman Index (HHI) test in regulation of combinations by competition authorities. How has the Competition Commission of India fixed various regulatory tolerance levels under the test for its application in merger cases? (Marks: $10 \times 02 = 20$)

Q. 4) The determination of "control" under Competition Act, 2002 has been at the centre of all debates and deliberations on merger regulation. Highlighting the significance of "control" in combination regulation, trace the advent of different versions of control and their distinctive attributes as propounded by judicial pronouncements under the Competition Act 2002 (Marks: 20)

Q. 5) The Eastern Railway, through its Chief Materials Manager (Informant), issued an open tender for the procurement of 594 pairs of axle bearings. The tender was floated on 31.07.2019 and closed on 02.09.2019. The informant alleged that six RDSO-approved vendors engaged in cartelization by quoting identical prices in the bidding process. The Competition Commission of India (CCI) initiated an investigation based on a prima facie case of bid-rigging:

Four out of six vendors quoted identical prices, despite being based in different geographical locations with differing costs. This raised suspicion of cartelization. The Commission observed a pattern of identical bids in previous tenders from 2012 to 2019, suggesting the continuation of a cartel. The Opposite Parties justified their identical bids by claiming that they mirrored each other's prices due to the nature of the market and predictable pricing, but the CCI noted the improbability of such coincidences. During the investigation, numerous call and email exchanges were found between the key managerial personnel of participating bidders.

Identify the various factors that the Commission should examine in the above mentioned alleged anti-competitive conduct. Also, highlight the significance of 'price parallelism' and 'circumstantial evidences' in such inquiries. (Marks: 20)

Q.6) Write short note on the following:

(a) Predatory Pricing

(b) SSNIP

(Marks: $10 \times 02 = 20$)