



Competition Law

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Table of Contents

SUPREME COURT DISMISSES AGNI STEELS' APPEAL AGAINST MADRAS HIGH COURT ORDER	Page 3
THREE COMPLAINTS DISMISSED AT THE THRESHOLD FOR WANT OF EVIDENCE	Page 3
CCI APPROVES ACQUISITION OF SHAREHOLDING IN HITACHI ASTEMO LTD. BY JIC AND HONDA MOTOR	Page 3
CCI APPROVES ONTARIO TEACHERS PENSION PLAN – HC ONE – KKR TRANSACTION	Page 4



The Competition Commission of India (CCI) published three enforcement decisions and four combination orders in November 2023. The main highlights, along with an update from the Supreme Court of India, on the alleged steel cartel saga follows.

SUPREME COURT DISMISSES AGNI STEELS' APPEAL AGAINST MADRAS HIGH COURT ORDER

As reported in the [November edition](#) of the Newsletter, the Division Bench of the Madras High Court had dismissed ([19.10.2023](#)) the appeals filed by Agni Steels challenging the search and the seizure conducted by the Director General in its premises for their alleged involvement in a steel cartel.

Agni Steels filed a Special Leave Petition before the Supreme Court as a last throw of the dice, but to no avail, as the Court dismissed the petition on the first day *vide* its order of [10.11.2023](#).

Parallely, as reported in the [June edition](#) of the Newsletter, the Calcutta High Court had refused to grant the interim relief sought by Shyam Steels challenging similar summons issued by the DG regarding their alleged involvement in the same purported cartelization as that of Agni Steels. The order of the single judge bench was then challenged before a Division Bench, which unfortunately hasn't been able to see the light of day till now. However, the entire process seems to have become infructuous with the order of the Apex Court in Agni Steels, and the DG, CCI is free to continue with its investigation.

THREE COMPLAINTS DISMISSED AT THE THRESHOLD FOR WANT OF EVIDENCE

The end of November saw a flurry of orders passed with all of its four newly appointed members sitting together for the first time.

The [first case](#) pertained to allegations of abuse of dominance against Indian Bank for imposing a penalty upon informant for a premature

withdrawal of two fixed deposits by the individual. While dismissing the complaint, the CCI noted that since there existed several players operating in the relevant market for provision of term deposit services in India, and no information had been provided in relation to Indian Bank's alleged dominance.

The [second matter](#) to be dismissed was in relation to allegations levied against two pharmaceutical companies, Lupin and Dr. Reddy's Laboratories for (a) an alleged anti-competitive distribution policy of refusing to supply products to a particular wholesaler by Lupin, and (b) non-implementation of agreements of appointment of stockists, by Dr. Reddy for want of a No-Objection Certificate. However, the scant evidence provided did not substantiate the allegations.

[Lastly](#), the CCI dismissed an allegation levelled against the Surveyor General of India for facilitating a cartel of bidders for a tender floated by it for the procurement of 4 LED Plotters with Folders by way of a two-packet bid.

The CCI noted that as per the conditions of the tender, a set criterion was laid for bidders, and exemptions were granted to those, where necessary. Moreover, the informant had failed to provide any evidence in support of the allegation.

CCI APPROVES ACQUISITION OF SHAREHOLDING IN HITACHI ASTEMO LTD. BY JIC AND HONDA MOTOR

The CCI, *vide* order dated [10.10.2023](#), approved the acquisition of up to 20% of the voting rights in Hitachi Astemo Ltd. (HAL) by Japan Investment Corporation (JIC) and 6.6% voting rights in HAL by Honda Motor Co.

The CCI analysed the combination with respect to existing vertical linkages and found that in respect of certain auto parts the market share was in the range of 40-55%. However, it concluded that since these were existing relationships with no new overlaps arising, and there would be no significant change in the competition dynamics in the concerned markets, the CCI approved the combination.

CCI APPROVES ONTARIO TEACHERS PENSION PLAN – HC ONE – KKR TRANSACTION

The CCI, *vide* order dated [20.09.2023](#), approved the minority investment in several highway road assets/expressways situated in different states in India.

As in previous decisions, the CCI defined the relevant market for each road origin and destination pair and noted that there were no overlaps. With regard to ‘Operations & Maintenance of highways in the road infrastructure sector in India’, it found that the post combination, incremental market shares of the concerned parties would not have an appreciable adverse effect on competition in the market. Due to the foregoing reason and the presence of other players in the market, the commission unconditionally approved the transaction.

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