

## LEGAL UPDATES

### **CCI: BID-SUBMISSION BY INELIGIBLE PHARMA-DEALER, NOT DOMINANCE ABUSE; REJECTS COMPLAINT GIVEN NO CONCERNS ABOUT COMPETITION**

In a complaint filed, OP, a pharmaceutical and medical equipment distributor was accused of abusing its dominating position in the State of MP when a government agency awarded a contract, in violation of Sec. 4 of the Competition Act. CCI dismissed the allegation mentioned. The CCI emphasized that the submission of a bid by a supposedly ineligible bidder cannot be viewed as an instance of that bidder abusing his or her dominating position. The Informant, who helps his clients find the most recent tenders released by different governmental, semi-governmental, and non-governmental organizations, claimed that he used RTI to obtain information from the relevant departments and discovered that OP had successfully acquired the relevant tender published by various governmental departments in the State of MP. The turnover claimed by the OP was false because OP did not even meet the pre-qualification criterion, which resulted in the denial of market access to the Informant's clients. He also discovered that the concerned department gave OP an unfair competitive advantage when OP did not even meet the pre-qualification eligibility requirements. The Informant further claimed that OP leveraged its dominating position to win bids in 2019 even before receiving the requisite certificate and that OP has been the subject of a complaint to the Economics Offence Wing in this respect. The order passed was issued by Mr. Ashok Kumar Gupta, Mr. Bhagwant Singh Bishnoi along with Sangeeta Verma. The Commission held that the Information lacks mention of any agreement or understanding between the OP and any other party as contemplated by the Act and, as a result, the provisions of Sec. 3 are not attracted. The Commission noted that the nature of the allegations does not give rise to competition concerns under Sec. 4 of the Act. Thus, CCI ordered the closure of the current complaint after ruling that there is no competition issue.