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BEFORE THE
COMPETITION APPELLATE TRIBUNAL, ISLAMABAD

1) JCR-VIS RATING COMPANY LTD. APPELLANT

VERSUS

COMPETITION COMMISSION OF PAKISTAN

...RESPONDENT

Appeal No. 06/2017

For the appellant: Mr. Habib Ahmed Bhatti,
Advocate

For the Respondent No-1: Mr. Saad Amir, Advocate

For the Respondent No-2: Miss Gulalay, Advocate

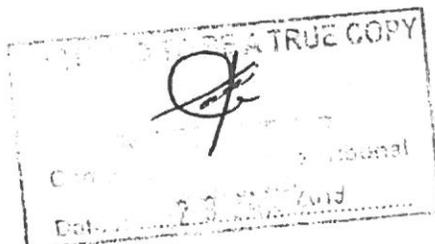
For the Respondent No-3: Barrister Farrukh along-with Dr.
Attique, Advocate

Date of hearing: 14-03-2017, 09-05-2017, 24-05-2017,
16-06-2017, 13-09-2017, 03-10-2017,
18-10-2017, 25-10-2017, 20-02-2018,
21-03-2018, 10-04-2018, 26-06-2018,
03-07-2018, 05-02-2018, 16-10-2018,
07-11-2018, 20-11-2018, 27-11-2018,
05-12-2018, 18-12-2018,

JUDGMENT

 Justice (R) Miftah-ud-Din, Member Technical.

The appellant has filed this appeal against the judgment dated 27-01-2017 whereby the appellant was found guilty of indulging into Exclusionary conduct



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3. The complaint of respondent No.2 was inquired into. The inquiry report proposed that the commission may consider initiating proceedings against the respondent for a prima-facie violation in terms of section 3 (3) read with sub-section 3 (2) and (1). Consequently the Competition Commission of Pakistan issued show-cause notice to the appellant who submitted his written reply to the complaint. After hearing the learned counsel for the parties, the learned Competition Commission of Pakistan declared the bidding process anticompetitive and fined the appellant for Rs.5 lacs with direction to Neelam Jhelum Hydro Power Company to cancel the bid and proceed with fresh bidding in a transparent manner through the impugned judgment and order dated 27-01-2017. Aggrieved from the same the appellant has preferred this appeal. During the pendency of appeal an application for impleadment of Neelam Jhelum Hydro Power Company was made and this Tribunal came to the conclusion that Neelam Jhelum Hydro Power Company is a necessary party to the present proceedings, hence arrayed Neelam Jhelum Hydro Power Company as a party to the present appeal.

4. The learned counsel for Neelam Jhelum Hydro Power Company argued that the bidding process was made by the NJHPC which was a necessary party before the Competition Commission of Pakistan, but the learned Competition Commission of Pakistan just

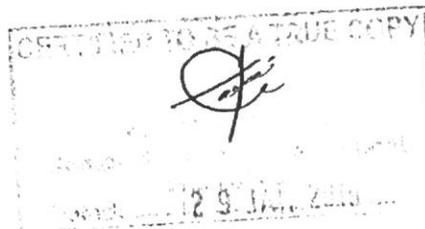


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account the assertion of Neelam Jhelum Hydro Power Company in this connection.

5. The learned counsel for the appellant contended that the appellant specifically raised certain issues including the issue that the appellant share is not more than 40% per revenue shares, therefore, the appellant was not at all holding a dominant position but neither the necessary issues were framed nor the appellant was afforded an opportunity to lead evidence on such issues, hence the learned Competition Commission of Pakistan has not effectively and justly adjudicated the necessary questions in controversy between the parties. In this view of matter, it was prayed that the impugned order be declared illegal, unlawful and of no legal effect.

6. The learned counsel for Pakistan Credit Rating Agency and Competition Commission of Pakistan opposed the contentions so raised by learned counsel for Neelam Jhelum Hydro Power Company and contended that this Tribunal has got ample power to decide the matter without remanding the same after impleadment of Neelam Jhelum Hydro Power Company. The learned counsels submitted that remand of the case would prolong the agonies of the parties by subjecting them to a new round of litigation hence, the same will be wrong and unjustified.



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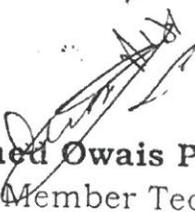
party, we hold that proper issues based on contentions of all the parties concerned were neither framed nor answered and Neelum Jhelum Hydro Power Company and other financial institutions have been condemned unheard.

9. Resultantly the present appeal is accepted and the impugned judgment and order dated 27-01-2017 is set-aside. The case is remanded to Competition Commission of Pakistan to decide the same afresh in accordance with law after taking into account assertions of all parties concerned. No order as to costs.

**Announced in open court
15-01-2019**


Justice Mian Fasih Ul Mulk,
Chairman


Justice Miftah-Ud-Din
Member Technical


Ahmed Owais Pirzada
Member Technical

Application No.	04
Dated	24-01-2019
Applicant	CCP
No. of P	18
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