



Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA
(Combination Registration No. C-2016/11/453)

29.12.2016

**Notice filed under sub-section (2) of Section 6 of the Competition Act, 2002 jointly given by
CDPQ Private Equity Asia Pte. Ltd. And Mr. R. Dinesh**

CORAM:

Mr. Devender Kumar Sikri

Chairperson

Mr. S. L. Bunker

Member

Mr. Sudhir Mital

Member

Mr. U. C. Nahta

Member

Legal Representative: M/s Cyril Amarchand Mangaldas

Order under sub-section (1) of Section 31 of the Act

1. On 02.11.2016, the Competition Commission of India (“**Commission**”) received a notice under sub-section (2) of Section 6 of the Competition Act, 2002 (“**Act**”) given by CDPQ Private Equity Asia Pte. Ltd. (“**CDPQ Asia**”).
2. The proposed combination relates to the acquisition of equity shares of TVS Logistics Services Limited (“**TVS LSL**”/ “**Target**”) by CDPQ Asia from GS Logistics Holdings Limited (“**GS**”) and Zumrut Investments Ltd., Mauritius (“**KKR**”) (hereinafter collectively referred to as the “**Sellers**”) (“**CDPQ Transaction**”). In addition, Mr. R. Dinesh (one of the existing promoters



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of TVS LSL) and/or certain entities controlled by him propose to purchase certain equity shares held by KKR and GS in TVS LSL (“**Dinesh Transaction**”). (CDPQ Transaction and Dinesh Transaction together constitute “**Proposed Combination**”). For the purpose of the CDPQ Transaction, a Share Purchase Agreement has been executed between CDPQ Asia, GS, TVS LSL and T.V. Sundram Iyengar & Sons Private Limited (“**TVS & Sons**”) (“**GS-CDPQ Asia SPA**”) and another Share Purchase Agreement has been executed between CDPQ Asia, KKR, TVS LSL and TVS & Sons (“**CDPQ-KKR SPA**”). For the Dinesh Transaction, a Share Purchase Agreement has been executed between GS, TVS LSL and Mr. R. Dinesh (“**GS-Promoter SPA**”) and another Share Purchase Agreement has been executed between KKR, TVS LSL and Mr. R. Dinesh (“**KKR-Promoter SPA**”). In addition, a Shareholder’s Agreement has been executed among TVS & Sons, CDPQ Asia, Omega TC Holdings Pte Ltd, Tata Capital Financial Services Limited, TVS LSL and Mr. R. Dinesh (Hereinafter CDPQ Asia, Mr. R. Dinesh and TVS LSL are collectively referred to as the “**Parties**”). All the aforementioned agreements have been signed on 19.10.2016.

3. The Commission observed that the notice given on 02.11.2016 was filed only by CDPQ Asia whereas the Proposed Combination also envisages acquisition of shares in TVS LSL by Mr. R. Dinesh, besides acquisition of shares by CDPQ Asia. Accordingly, the Parties were asked to clarify the notifiability of the Dinesh Transaction. In response, the Parties, vide letter dated 22.12.2016, submitted that Mr. R. Dinesh and TVS & Sons are acting independently and not in concert as a promoter group. It was further submitted that on a stand-alone basis, Dinesh Transaction does not meet the thresholds as prescribed under Section 5 of the Act and hence, does not require notification to the Commission and the information relating to the Dinesh Acquisition has already been provided in the notice. The Parties further submitted necessary documents for considering Mr. R. Dinesh as a joint acquirer for the purpose of the Proposed Combination.
4. The Commission considered the submissions of the Parties and decided to take on record the documents submitted in respect of Mr. R. Dinesh as a joint acquirer for the purpose of the



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Proposed Combination (Hereinafter CDPQ Asia and Mr. R. Dinesh are together referred to as the “**Acquirers**”).

5. CDPQ Asia, incorporated in Singapore as a special purpose vehicle, is a wholly owned subsidiary of ‘Caisse de dépôt et placement du Québec’ (“**CDPQ**”) and forms part of the CDPQ group. CDPQ is an institutional fund manager in Canada and acts as an institutional investor that manages funds primarily for public and parapublic pension and insurance. While CDPQ Asia does not have any direct presence in India, it is present indirectly through an Indian subsidiary viz CDPQ India Private Limited. In addition, CDPQ also has certain investments in companies operating in India.
6. TVS LSL is a public unlisted company registered in India and forms part of the TVS group of companies. It is engaged in the business of providing logistics services and specializes in transportation, warehousing, distribution and in ‘In Plant Logistics’ services to automobile original equipment manufacturers, auto part suppliers and buyers. It also offers freight management services, which include air freight, ocean freight and custom clearances. As a part of providing asset based management solutions, it provides material handling solutions for engineering and automobile companies.

The Commission noted that there are no horizontal overlaps between the business of the Target and those of the portfolio companies of CDPQ in India. The Commission observed that while the Target is involved in the provision of logistics services, CDPQ/CDPQ Asia is not engaged in any activity relating to the production, supply, distribution, storage, sale and service or trade in products or provision of services which is at different stages or levels of the production chain in which the Target is involved. Therefore, there are no vertical overlaps between CDPQ/CDPQ Asia and the Target. Thus the Proposed Combination is not likely to cause an appreciable adverse effect on competition in any of the market in India.

7. The Commission also observed that the non-compete obligations are proposed to be in operation until the term of the SHA. The SHA will remain valid and binding, vis-a-vis the



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Investor Group (i.e., CDPQ Asia and any of its Affiliates which acquire the Investor Securities or subscribe to or acquire new securities of the Target), until the Investor Group holds at least 5% of the paid-up share capital of the Target (if the Investor has not sold any Investor Securities, the SHA shall continue to be effective as regards the Investor even where the Investor's shareholding on a fully diluted basis falls below 5%). The Acquirers were required to provide justification regarding the non-compete obligations. In response, the Acquirers offered modification under the provisions of sub-regulation (2) of Regulation 19 of the Competition Commission of India (Procedure in regard to the transaction of Business relating to Combinations) Regulations, 2011 ("**Combinations Regulations, 2011**"), vide their communication dated 24.12.2016. The Acquirers offered to modify the non-compete obligation to the effect that the non-compete obligations, vis-a-vis the Investor Group, would be applicable until the Investor Group ceases to beneficially own 10% of the paid-up share capital of the TVS LSL, irrespective of the fact whether the investor has sold any investor securities. The Acquirers have also given an undertaking vide the aforesaid response that they will enter into relevant documentation to effect the aforesaid amendment to the non-compete obligations and submit copies of such executed documents to the Commission.

8. The Commission, hereby, accepts the modification offered by the Acquirers under the provisions of sub-regulation (2) of Regulation 19 of the Combination Regulations. The Acquirers are directed to make necessary amendments in the documents so as to incorporate the modification and submit a copy of such amended documents within a period of one month from the date of receipt of this Order.
9. Considering facts on record and details provided in the notice given under sub-section (2) of section 6 of the Act and assessment of the Proposed Combination on the basis of factors stated in sub-section (4) of section 20 of the Act and the modification relating to non-compete obligations offered by the Parties under the provisions of sub-regulation (2) of Regulation 19 of the Combination Regulations, the Commission is of the opinion that the Proposed Combination is not likely to have appreciable adverse effect on competition in



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India and therefore, the Commission, hereby, approves the same under sub-section (1) of section 31 of the Act.

10. This order shall stand revoked if, at any time, the information provided by the Acquirers is found to be incorrect.
11. The information provided by the Acquirers is confidential at this stage in terms of and subject to provisions of Section 57 of the Act.
12. The Secretary is directed to communicate to the Acquirers accordingly.