

**IN THE COURT OF SH. ARVIND KUMAR
SPECIAL JUDGE, CBI-01, NEW DELHI DISTRICT
PATIALA HOUSE COURTS, NEW DELHI**

CC No. : 01/2013

ID No. : 02403R0009082013

**RC No. : AC1 2011 A0004
Branch : CBI/AC-I/New Delhi
U/S : 120B, 420, 471 of IPC and
13(2) r/w 13(1) (d) of P C Act, 1988.**

CBI

..... Complainant

Versus

- 1. V.K. Verma
the then Director General
OC, CWG, 2010, Delhi
R/o D-3, IIIrd Floor, Maharani Bagh, New Delhi.**

Permanent :

Dadambari, Jain Degree Road, Saharanpur, U.P.

..... Accused No.1 (A-1)

2. **M. Jeychandren**
the then OSD (Revenue)
Organising Committee, CWG, 2010, Delhi.
R/o Bloick-1-15, Flat No. 15, Rail Nagar,
Koyambedu, Chennai-600107.
..... Accused No.2 (A-2)
3. **Ram Mohan**
ADG (Legal), OC, CWG, 2010, Delhi.
S/o Late Madan Mohan
R/o House No. 924, Sector-21, Gurgaon-122016, Haryana.
..... Accused No.3 (A-3)
4. **Surjit Lal**
the then DDG (Procurement/Overlays),
OC, CWG, 2010, Delhi.
R/o Flat No. 72, DDA Flats, Gulmohar Enclave,
New Delhi – 110049.
..... Accused No.4 (A-4)
5. **Gp. Captain K Uday Kumar Reddy**
Director, Accounts, Audit & CSD, Indian Airforce and
the then ADG (F&A), Organising Committee,
CWG, 2010, New Delhi.
S/o Late K.L.N. Reddy
R/o Flat No. C-22, Sarve Sanjhi Apartments,
Sector 9, Dwarka, New Delhi – 110007.

Permanent :

**Plot No. 512F, Road No. 30, Jublee Hills,
Hyderabad – 500036.**

..... Accused No.5 (A-5)

6. **Sangeeta Welinkar**
the then ADG (Image & Look), OC, CWG, 2010, New Delhi
W/o Sh. Waman Sushil Welinkar,
R/o B-17, Garden Estate, D.P. Road, Aundh,
Pune-411007, Maharashtra.
..... Accused No.6 (A-6)
7. **Suresh Kumar @ Suresh Kumar Seengal**
S/o Late Om Prakash
1102, World Spa (East Wing), Sector-30, Gurgaon.

Permanent :

1153, Sector VII, Panchkula, Haryana – 134109.
..... Accused No.7 (A-7)
8. **M/s Premier Brands Pvt. Ltd.**
through its Director Suresh Kumar Seengal
Address – M2, Hemkunt Chambers, 89, Nehru Place,
New Delhi – 110019.

Permanent :

203, Ekdant Housing Society, Oshiwara,
Near Oshiwara PS, Jogeshwari (west),
Mumbai – 400102.
..... Accused No.8 (A-8)
9. **M/s Compact Discs India Ltd.**
through its Director Suresh Kumar Seengal
Address – SCO,856, NAC, Manimajra, Chandigarh – 160101.
..... Accused No.9 (A-9)

Order on Charge : -

Briefly stating the facts as stated in the charge-sheet are as under :-

1. It is alleged that V.K. Verma, the then DG, Organising Committee (OC), Commonwealth Games, 2010 and other officers of the OC entered into a criminal conspiracy with Suresh Kumar Seengal, Director of M/s Premier Brands Pvt. Ltd., (PBPL) and Chairman M/s Compact Disc India Ltd., and others and in furtherance to the said criminal conspiracy, the OC officers by abusing their official positions, extended undue favour to M/s PBPL in appointing this company as official Master Licensee for Merchandising and On-line & Retail Concessionaire for Commonwealth Games, 2010 (CWG) against minimum royalty amount of Rs. 7.05 Crores. The process of initial Request for Proposal (RFP) dated 03.11.2009, was scrapped on flimsy grounds, after receipt of the proposal of M/s PBPL dated 01.02.2010 and 2nd RFP was again initiated on 06.04.2010.
2. M/s PBPL used the CWG brand properties and earned a huge amount but did not pay anything to the OC and the

cheques amounting to Rs. 3.525 Crores, given by M/s Premier Brands Pvt. Ltd. were dishonoured by the Bank on instructions from M/s Premier Brands Pvt. Ltd.. Thus, the accused public servants abused their official position in order to cause pecuniary advantage of over Rs. 3.525 Crores, to Suresh Kumar Seengal and M/s PBPL, and caused a corresponding wrongful loss to the Govt. Exchequer.

3. The right to appoint licensee(s) for merchandising in various product categories as well as retailing the merchandise during the games at various venues/locations and through Online retail was one of the key revenue generating rights available with the OC. For this purpose OC CWG Delhi 2010, entered into an agreement with M/s Sports Marketing and Management (M/s SMAM) on 25.07.2007 with the objective of sole and exclusive responsibility for the negotiations and procurement of sponsorship and licensing offers on behalf of Delhi 2010, which Delhi 2010 will, in its sole discretion, accept or reject.
4. In June 2009, M/s SMAM gave its presentation, on Merchandising and Licensing (M&L) which was for concept clarification and providing the scope of Merchandising and the market opportunities and the practices followed worldwide. Thereafter, in their presentation dated 08.08.2009, M/s SMAM

provided three options available to the OC, on how to approach the market of India, which are as follows:-

Option A: In House: OC to source and market/sell the products.

Option B: Licensing buy-out or Super Licensees

To appoint individual retail partner/licensee who would produce and market/sell majority of their licensed products excluding some special items (i.e. coins, stamps, watches, clocks etc.) through shop front retail, D-2010's on line store, venues, Games, village concession sales outlets.

Option C: Appointment of individual licensees

The appointment of individual licensees who will produce various products which will then be sold to retailers, online licensee and venue merchandise licensee for sale.

5. Thereafter a meeting for Licensing and Merchandising was held on 13.10.2009 at OC Hqrs., which was chaired by Sh.

Suresh Kalmadi, Chairman, OC and attended by S/Sh. V.K. Verma, V.K. Saxena, ADG(Revenue); M.Jeychandren, JDG (Fin.); Ms. Sangeeta Welinkar, ADG (Chairman's Secretariat); Martin Benson, Manager (SMAM); Ms. Susan Hunt/Manager (SMAM) and Ms. Sweety Patel, PO (Licensing & Merchandise). Views of M/s SMAM, M & L Team and DE were considered in the said meeting and it was decided that the Final advertisement and vetted application form would be submitted for approval to the respective Approvals Committee.

6. The strategy for dealing with the issue was dealt in the Note dated 17.08.2009 of Sh. B.B. Kura, Jt.DG (Revenue) which detailed the responsibilities of M/s SMAM as well as that of the OC vis-a-vis the Merchandising and Licensing programme. It was stated that the Options A and B were not viable as informed by Mr. Shane Reddenbach of M/s SMAM who had meetings with two prospective Super Licensees i.e. Reliance and Future Group and that their response was poor. It was proposed that "the only viable option is Option C i.e. appointment of individual Licensees across various of categories".

7. An Office Note dated 30.10.2009 on the subject Licensing and Merchandising (M & L) was put on behalf of Sh.

V.K. Saxena, ADG (Revenue) which shows that the changes as suggested by the DG, Sh. V.K. Verma and M/s SMAM were incorporated in the Draft Advertisement and the RFP document. The final approval for the advertisement and the further course of action to be taken had been given by the DG Sh. V.K. Verma. At this stage, no reference/approval of the OC Finance Committee had been sought and the concerned officers which included Sh. V.K. Saxena, ADG (Revenue) and Sh. V.K. Verma, the then DG. Para 12 of the said note mentioned that "if a master licensee comes forward with an offer which is significantly higher than this amount and closer to our budget target, OC may cancel the tender process." As per this note, only the proposal for bringing out the advertisement had been mainly approved alongwith the RFP (Request for Proposal) document.

8. As per the RFP, the two main purposes for the M & L programme were, firstly, to help in promotion of the Games and Team India, and secondly, to maximise revenue to support the staging of the Games. The opportunity to grant a license by Delhi 2010 was open to companies who design, manufacture, distribute, sell or retail in the 12 product categories and who also fulfill the criteria as listed in the Licensee Application Form. The RFP did not have a scope for appointment of Master

Licensee. Further that as per para 2, preference was to be given to the bidders with proven track record as an authorised licensee for leading sports, events, entertainment, movies or music properties. The evaluation of bids was divided into two parts: Phase I: Evaluation of Application Form (Technical Evaluation) and Phase-II: Evaluation of Commercial Offer. It was mandatory for the applicant to obtain minimum of 600 marks or more in the technical evaluation parameters. Licenses were to be granted on category exclusive basis. The application with highest commercial offer (i.e. Royalty Fee) for each product category was to be considered for awarding of license and the successful applicants were required to sign a Merchandising and Licensing Agreement with the OC, in a form satisfactory to the OC. The minimum royalty amount to be tendered to the OC was 5% of the MRP. The royalty payment to the OC was to be done in three phases (i) 20% at the time of signing of the agreement, (ii) 30% before commencement of merchandise sale within 4 months of signing of agreement and (iii) Final balance 50% after three months of commencement of sale and within 9 months of signing of the agreement. There was "Limitation on use of brand/intellectual property rights : Dual Branding". It was stipulated that "The Licensee shall not be entitled to use any mark/logo/brand/trade mark/copyright or other intellectual property on the same product unless expressly

approved in writing by Delhi 2010. Dual branding shall be allowed only when expressly approved in writing by Delhi 2010.

9. An Advertisement for the RFP was published in the leading newspapers on 03.11.2009. The final submission of bid/application forms were required to be done by 11 am on 24.11.2009. However the date of opening of the bids was not notified in this advertisement. Following are the twelve product categories that had been advertised for the Merchandising and Licensing programme of the OC, CWG 2010.

1	Accessories	7	Collectibles
2	Sportswear (Men/women)	8	Home wares
3	Casual Wear (Men/women)	9	Luxury goods
4	Formal Wear (Men/women)	10	Stationery
5	Kids and infants wear	11	Toys
6	Bags	12	Other which includes cultural products, Handloom and Handicrafts

10. A committee for evaluation of the RFPs for Merchandising and Licensing had been formed as per the note dated 03.11.2009 of Sh. V.K. Saxena, the then ADG

(Revenue). Approval for the formation of the Evaluation Committee with the members as proposed in the above said note dated 03.11.2009 of Sh. V.K. Saxena had been accorded by V.K. Verma, DG. Following were the members of the Evaluation Committee:-

1. M Jeychandren, Jt DG (Finance)
2. V.K. Saxena, ADG (Revenue)
3. Sangita Welinker, ADG (Image & Look, Chairman's Secretariat)
4. Ram Mohan, DDG (Legal)
5. Surjit Lal, DDG (Procurement)

11. The Sponsorship Approval Committee (SAC) officially called the "Approvals Committee" was formed on 24.11.2009 for approving sponsorship proposals, which had been approved by the Chairman, OC, CWG 2010. The ADG (Revenue) was required to put the sponsorship proposals processed by SMAM, for approval of the "Approval Committee" consisting of (1) Secretary General (2) Treasurer (3) Chief Executive Officer and (4) Director General.

12. In response to said RFP dated 03.11.2009 (hereinafter

referred as 1st RFP), representatives of 15 different prospective bidders attended the pre-bid conference on 13.11.2009 in the OC office. Thereafter, on the last date of submission of bids i.e. on 24.11.2009, 13 bids were received out of which 2 were late bids. The 11 on-time Technical bids were opened on 24.11.2009. The Evaluation Committee met on 30.11.2009 for carrying out the technical evaluation. The 11 'on-time bids' were evaluated on the technical parameters by the Evaluation Committee and the Technical Evaluation Matrix sheets were prepared the same day i.e., on 30.11.2009 by the M & L FA Team.

13. The Technical Evaluation Committee in its report dated 03.12.2009, had recommended for opening of commercial bids of the following nine technically qualified bidders:-

1. Bluebird.
2. M/s Esskay Creative.
3. M/s HHEC
4. M/s HMT
5. M/s Indiagames.
6. M/s Lilliput
7. M/s PP Jewellers
8. M/s Rosebys/NTC

9. M/s Vintage Hi Fashion.

It had also been recommended that the two late bids received from M/s Koutons and M/s Tudor Group, be opened subject to technical evaluation separately, only for the products which were not covered by any of the 9 successful bidders. The above recommendations were thereafter approved by the CEO, Sh. Jarnail Singh the same day.

14. Thereafter the Evaluation Committee again met on 05.12.2009 for carrying out the technical evaluation of the 2 'late-bids' i.e. of M/s Koutons and M/s Tudor Group only for the 6 categories i.e. Sports wear, formal wear, casual wear, bags, collectibles and stationary which had not been covered by any of the 9 successful bidders. After technical evaluation of the said two bids, M/s Koutons Retail India Ltd., was declared successful and it was recommended that M/s Koutons Retail India Ltd. could be taken to the next level for commercial evaluation for only 5 categories out of the 7 categories applied for by them. M/s Tudor Group, however, did not qualify in the technical evaluation. Accordingly after completion of technical evaluation round, there were 10 technically qualified bidders whose commercial bids could be opened.

15. The commercial bids of the 9 technically qualified bidders were opened by the committee on 05.12.2009 in the presence of company/bidders representatives and that of M/s Koutons were opened on 12.12.2009. The commercial evaluation report was submitted by the Committee on December 31, 2009. The Evaluation Committee recommended four applicants for the respective categories on an exclusive basis and other 6 bidders were approved for item exclusive basis for total bid amount of Rs. 371.76 lakhs. Following is the list of the bidders qualified in the Commercial evaluation:-

Bidders qualified on Category Exclusive basis :-

1. M/s Esskay Creative Pvt. Ltd.
2. M/s Lilliput Kids Wear Ltd.
3. M/s Rosebys & NTC (JV)
4. M/s Koutons Retail India Ltd.

Bidders qualified on Item Exclusive basis:-

1. M/s India Games.
2. M/s Vintage Hi Fashion Pvt. Ltd.
3. M/s Handicrafts and Handlooms Exports Corporation of India.

4. M/s Bluebird International (India)
5. M/s HMT Watches Ltd.
6. M/s P P Jewellers Pvt. Ltd.

16. The RFP process had been taken further by Dr. Sanjay Mohindroo, DDG (Revenue & Marketing) who had received signed MOU from M/s Esskay Creative Pvt. Ltd. In this regard an office note had been moved by Dr. Sanjay Mohindroo on 15.01.2010 to the DDG Legal Sh. Ram Mohan whereby a draft MOU had been submitted for approval and vetting. Thereafter the file was received by Gp. Capt. K.U.K. Reddy on 19.01.2010 for approval. Dr. Sanjay Mohindroo had been orally intimated that they could move ahead with the MOU and accordingly they had called the representatives of M/s Esskay Creative to submit their MOU on a stamp paper and had kept it ready for further processing in order to save time.

17. That approval of Mr. Mike Hooper, Chief Executive Officer, Commonwealth Games Federation (CGF) had been sought by the Functional Area for the finalisation of the proposed MOU between OC and the licensees. As per the e-mail dated 02.02.2010 of Ms. Nidhi Shamra, PO (M & L), OC, CWG to the CGF, the total royalty amount for all the categories/items was Rs. 203.9 Lakhs. Approval of CGF was

received from Mike Hooper, via e-mail on 06.02.2010, in respect of list of licensees as sent for approval. As such the first RFP process was in the final stage and only signing of the MOU/License agreement was pending as on 06.02.2010.

18. Negotiations were done with the successful bidders, however, as time passed by a number of bidders started withdrawing/revising (downwards) their bids. As per the Office Note dated 19.02.2010 of Dr. Sanjay Mohindroo put up to the SC/Executive Management Committee, the minimum royalty amount had come down to Rs. 18,463,000/- as compared to the initial offer of Rs. 37,176,000/-. Though this note of Dr. Sanjay Mohindroo had endorsement of Sh. Jiji Thompson, the then SP/DG, this was not processed further by anyone. The matter of award of licenses for M & L programme, was taken up in the agenda of the SAC meeting scheduled for 23.02.2010. The SAC meeting was however held on 24.02.2010 and was attended by Sh. Lalit Bhanot, the Secretary General, Sh. Anil Khanna, the Treasurer, Sh. Jarnail Singh, the CEO and Sh. V.K. Verma, the Director General who were the members of SAC. Sh. Anil Khanna, Sh. Jarnail Singh and Sh. V.K. Verma are the signatories to the minutes of the SAC dated 24.02.2010 which was also attended by Sh. V.K. Saxena, the FA Head for sponsorship and Dr. Sanjay Mohindroo, FA Head for

Merchandising and Licensing.

19. During the meeting of the SAC dated 24.02.2010, it had been pointed out by Sh. V.K. Verma that as the M & L RFP had been issued without obtaining the approval of the OC Finance Committee, it was void and he pressed hard and deliberately insisted for annulling the selections made through the said RFP, with an intention to scuttle the ongoing process, despite the fact that no such approval was required. Sh. V.K. Verma vehemently pointed out that the RFP was not issued after approval of the Finance Committee in order to get the selections scraped and insisted that a fresh RFP be issued after approval of the Finance Committee. Since the process of 1st RFP had been initiated under the authority of Sh. V.K. Verma, the Committee ceded to his demand and accordingly, the SAC recommended that "selection made through the present RFP be annulled as the RFP has not been issued after obtaining the approval of the Finance Committee."
20. During the aforesaid meeting the FA Head concerned, Dr. Sanjay Mohindroo, had pointed out that no such approval of the Finance Committee was needed as the matter of "Merchandising and Licensing" was related to revenue and not to expenditure which was similar to Sponsorships.

21. However, in order to save time and to get the progress made till then ratified, Dr. Sanjay Mohindroo, immediately put up a note on the same day i.e. 24.02.2010. Another detailed note alongwith the RFP had been put up on 05.03.2010, by Dr. Sanjay Mohindroo, in proper format, for the Agenda item for the next meeting of the OC Finance Committee (OC FC). It had been detailed in the said note of Dr. Sanjay Mohindroo that “the current RFP, which is being annulled, was estimated to generate Revenue of around Rs. 10 crore. Now with the RFP process being re-initiated the Revenue of 10 Crore may fall further to single digits”. It had also been requested vide this note that the FC could consider the current RFP post facto and decide if the same could be used to proceed further, without issuance of a new RFP for M & L. The FA was however directed to withdraw the proposal by the DG, Sh. V.K. Verma, who was also a member of the Finance Committee. It was stated that no such approval of Finance Committee was required, as it was a revenue related matter. As a result thereof, the 1st RFP stood cancelled as also that as a result of the withdrawal of the agenda of M & L from the 22nd meeting of the OC FC, the status quo was maintained.

22. Despite the fact that Sh. V.K. Verma was not, in any

manner, concerned with the M & L programme during this period, he sent an e-mail dated 11.03.2010, addressed to Sh. M. Jeychandren/V.K. Saksena, wherein he has detailed the course of action to be taken by the concerned Functional Area (FA), as also the reasoning for getting the approval of the OC FC, as the revenue generated from the stream would be over Rs. 50 Lakhs. This had been done just before the 22nd Meeting of the Finance Committee dated 12.03.2010.

23. That while the 1st RFP was still under process a separate process for appointing the concessionaire (Games time retail and online concessionaire) for the CWG Merchandise was already underway. The matter was initiated during the month of December, 2009 and the draft RFP was under preparation and the same was being circulated amongst the concerned officers for updating the same from financial, legal and technical angle.

24. That in respect of appointment of Concessionaire, Mr. Shane Redenbach, of M/s SMAM, had issued an e-mail dated 18.12.09 to the M&L FA vide which views of M/s SMAM, in the matter of appointing a retail/online games time concessionaire had been expressed. It was suggested by M/s SMAM, that the OC should go to the market with limited tendering and with a knowledge that there are only handful of companies that might

have the ability to provide the level of service needed to run the Licensing and Merchandising Programme (Concessionaire). Accordingly a note dated 29.12.09 was moved by Ms. Sweety Patel, PO (M&L), with the approval of Dr. Sanjay Mohindroo, wherein the *“Proposed Market approach”* was to *“test the market by releasing an advertisement in the leading newspapers across India inviting companies who are interested in taking up the opportunities for running the Merchandise Concessions and/or becoming Licensees”*. This file was stuck up at the level of the DG, OC.

25. Since the relevant file moved earlier, had been held up, Dr. Sanjay Mohindroo, directed Ms. Sweety Patel to put a fresh note, seeking approval for the release of the advertisement for the EOI in the newspapers. Accordingly a fresh note dated 05.01.2010 was moved by the concerned PO, seeking approval for brining out an advertisement for Expression of Interest (EOI) which was approved by the CEO on 22.01.2010. After getting the said approval, a note was again moved by Dr. Sanjay Mohindroo, wherein the ADG (Communications) was requested for releasing advertisement on Monday i.e., 25.01.2010. The advertisement for the Expression of Interest (EOI) could however be released only on 24.02.2010 and the process was set rolling within 10 days time for submission of the EOI i.e. not

later than 06.03.2010. EOI had been invited from interested parties for appointment of official licensees to manufacture and sell its official merchandise through their retail channel and Concessionaires to design, build and operate venue concessions, retail chains and superstores ("Concessions").

26. In response to the said EOI dated 24.02.2010, for concessionaires, 71 parties submitted their EOI forms. Amongst, others the following companies had also filed their EOIs M/s Premier Brands Pvt. Ltd., M/s CBSRL Associates, Catmoss Retail Ltd., HMT, Hero Electric, Esskay Creative, Lilliput Kidswear Ltd., Rosebys, HHEC, Blue Bird, vintage Hi Fashion, Indian Games, Liberty Shoes, P.P. Jewellers, Tata Tea, HUL, some of whom later filed their bids against the RFP for Merchandise and Licensing. M/s Sahara Services Ltd./Sahara India had also filed their EOI for Concessionaire and for Master Licensee. The approval for inviting the commercial bids for concessionaires, was finally granted by the CEO on 03.04.2010. M/s Sahara Services Ltd., however, did not file the RFP document after it was uploaded to the website of the OC.

27. That Licensing offers were received for sports wear from Adidas and Prem Group Co., which was in response to the direct market approach adopted by Dr. Sanjay Mohindroo as the

response to the RFP was very poor and in order to generate more revenue, other similar proposals had also been initiated, however, none of these could be finalised as the entire process had been annulled by the SAC by then.

28. In continuation to the Concessionaire programme, an RFP was uploaded to the official website of Commonwealth Games 2010 www.cwgdelhi2010.org. on 06.04.2010 simultaneously with the RFP for Merchandising and Licensing. The RFP had two major parts (i) On-line Retailer and (ii) Games time official Retail Concessionaire. The Online Retail Concessionaire was to sell the official merchandise to the online-customers, who would not be in a position to get access to the Games Merchandise available at the Concessions in Delhi. On the other hand, the Games-time office Retail Concessionaire had two parts i.e., Competition and Non-competition venues. The evaluation was to be in two phases. Phase-I was the Technical Evaluation and Phase-II was the Commercial Evaluation.

29. That there was only one bidder i.e., M/s Premier Brands Pvt. Ltd. for said concessionaire programme. The Evaluation Committee consisted of Sh. Surjit Lal, Gp. Capt. K.U.K. Reddy, Sh. Ram Mohan and Sh. Sanjay Mohindroo. Since there was

only one bidder for this programme, it was decided to call the bidder for negotiation with the Evaluation Committee on 06.05.2010. On the date of negotiations i.e., on 06.05.2010, M/s Premier Brands Pvt. Ltd. issued a letter No. PBPL / 10/CWG16, mentioning therein the minimum guarantee offered to Rs. 1,85,00,000/-. The Evaluation Committee recommended that M/s PBPL be appointed as official Concessionaire for all the three categories i.e., (A) Competition Venues Concessionaire for Rs. 1.25 Crores (B) Non-Competition Concessionaire for Rs. 50 Lakhs (C) On-line Concessionaire for Rs. 10 Lakhs total amounting to Rs. 1.85 Crores. The recommendations of the Evaluation Committee was approved by the SAC on 20.05.2010. Accordingly thereafter, a Letter of Acceptance (LOA) for appointment of Games Time Retail Concessionaire for the Licensing and Merchandising Programme relating to the CWG 2010 dated 28.05.2010 was issued to M/s Premier Brands Pvt. Ltd., which was accepted by a representative of M/s PBPL. In response to this M/s PBPL also issued a letter No. PBPL/10/CWG 24 dated 27.05.2010 accepting terms and conditions as laid down in the LOA date 28.05.2010.

30. M/s SMAM had issued a request to the OC for taking M/s Mudra Max and Pro-sports as partner which was in line with

para 5.2 of the Agreement with M/s SMAM wherein permission from the OC was mandatory for such Sub-contracting. Request of M/s SMAM was approved by the Chairman OC, Sh. Suresh Kalmadi whereafter an approval letter dated 17.02.2010 was issued to M/s SMAM. In line with the approval a team of M/s Pro-sports Mudra Max (Sub-Contractor for M/s SMAM) started working on behalf of M/s SMAM and started assisting the officials of M & L FA. As a result of the efforts of M/s Pro-sports, a number of parties like Sia Jewellery and Adidas agreed to participate in the M & L Programme. M/s Adidas had offered around Rs. 2 Crores as Minimum Guarantee and a revenue share with the OC. However, these could not materialise since the 1st RFP had been scrapped on flimsy ground.

31. Since the selections made through the 1st RFP had been annulled by the SAC, the same could not be processed further. On the other hand, a Notification had also been published for the EOI on the same date i.e. 24.02.2010 as detailed in pre-paras. Efforts were made by Dr. Sanjay Mohindroo to revive the bids received at the earlier stage. On suggestion of Dr. Sanjay Mohindroo, the bidders selected earlier were taken as technically pre-qualified for the 2nd RFP, after the approval of the CEO. It was also proposed that revised commercial offers

be called from the existing 10 selected prospective licensees also. Accordingly, it was decided to call for the commercial bids from the earlier 10 bidders, as well fresh bids from new participants.

32. It was further revealed during investigation that further to the enquiries received in response to the said notification of the EOI dated 24.02.2010, an Evaluation Committee was formed for evaluation of the bids on the basis of the note dated 05.04.2010. Following were the members of the proposed Evaluation Committee.

1. Surjit Lal, DDG Procurement.
2. Ram Mohan, DDG Legal & WF (Work Force)
3. Gp. Capt. KUK Reddy, ADG (F & A)
4. M. Jeychandren, OSD (F&A) and
5. Sangita Welinker, ADG (Image & Look)

33. The RFP for Licensing & Merchandising for Commonwealth Games and RFP for Online and Games-Time Retail Concessionaire was uploaded at the Official website of the CWG 2010 on 06.04.2010. The number of products in the 2nd RFP for Licensing and Merchandising were increased from 12 to 18 and the qualifying marks were lowered to 500 from

earlier 600. The last date of submission of the Technical and Commercial bids was 13.04.2010, 3.00 p.m.. In all, 18 number of bids has been received in the OC office and the bids were to be evaluated on 15.04.2010 by the Evaluation Committee. 11 new bidders had participated and there were 7 pre-qualified bidders. The pre-qualified bidders were not required to submit their technical Bids. The details of the new bidders & pre-qualified bidders is as under:-

S.No	New Bidders	S.No.	Pre-qualified/Old Bidders
1	Imprint Solutions Pvt. Ltd.	1	Vintage Hi-Fashion
2	Ashoka Wipes P Ltd.	2	Blue Bird International
3	Patel & Co.	3	Rosebys and NTC JV
4	MOI	4	HHEC
5	Stone Plus (India) P Ltd	5	P.P. Jewellers
6	Kathana Jewels P Ltd	6	India Games
7	Catmoss Retail Ltd.	7	Esskay Creative Pvt. Ltd.
8	Synergy House		
9	CBSRL		
10	Premier Brands Pvt. Ltd.		
11	Crystal CG		
Total	11 New Bidders		7 pre-qualified bidders

34. Technical bids of 11 firms/companies received till 13th April, 2010 were opened on 15th April, 2010 by the members of the Evaluation Committee assisted by the members of the Merchandising and Licensing FA team. The Minutes of the Evaluation Committee meeting dated 15.04.2010, reveals that, out of the 10 qualified bidders of the 1st RFP, only 7 applied again. It was noted by the committee that the bidders at S. No. 1 to 9 (new bidders) had scored the minimum benchmark of 500 points and as such qualified. As per this list M/s Premier Brands Pvt. Ltd. is figuring at S.No. 10 and had not secured the minimum qualifying marks of 500 which is also evident from the summary of the bids. Though all other bidders secured more than 500 marks, M/s Premier Brands Pvt. Ltd., secured only 230 marks in the technical evaluation and as such was actually not qualified. The said marks were awarded by the Committee itself as per which they were not qualified.

35. As per the above said minutes of the meeting of Evaluation Committee dated 15.04.2010, the members of the committee considered M/s Compact Discs India Ltd. (CDIL) as the parent company for M/s Premier Brands and the technical parameters of M/s CDIL were considered for qualifying M/s PBPL. The director of M/s Premier Brands Pvt. Ltd., with a dishonest intention, furnished all the technical aspects of M/s

CDIL in the RFP application form which was submitted to the OC, without qualifying that the data so provided were that of M/s CDIL and not of M/s PBPL. As per the said minutes M/s Premier Brands Pvt. Ltd., had expressed their interest in acquiring the M & L and Sole Concessionaire rights and they had offered a Royalty of Rs. 4 Crores as Minimum Guarantee to acquire the License and Concessionaire rights which were detailed in the letter No. PBPL/10/CWG-04 dated 13.04.2010 of M/s PBPL. This letter of M/s PBPL was considered by the Evaluation Committee. Vide this letter only M/s PBPL informed that it is a wholly owned subsidiary of M/s CDI Ltd. The offer of Rs. 4 Crores of M/s PBPL was a commercial offer and the committee wrongly considered this at the Technical Evaluation stage. The Evaluation Committee wrongly observed that "the offer from Premier Brands Pvt. Ltd. may be considered as qualified in the Technical Evaluation. However, for the purpose of Concessionaire, a view will be taken later". This was so because, M/s PBPL had not submitted any document pertaining to its financial and technical qualification alongwith the technical bid. In support of their Technical Qualification M/s PBPL had filed only the certificate of incorporation and Memorandum and Articles of Association. The only other document filed by M/s PBPL was the Annual Report of M/s CDIL for the year 2008-09, which does not show M/s PBPL as

its subsidiary. Moreover there is no mention of the activities of M/s PBPL in the said Annual report of M/s CDIL, primarily for the reason that M/s PBPL had not been incorporated till the end of the FY 2008-09.

36. The Evaluation Committee further recommended that (A) the commercial bids of 7 bidders who had qualified through the first EO/RFP and (B) the commercial bids of 10 bidders who qualified through the Technical Evaluation, be opened for further processing. The bidders who were declared qualified in the 2nd bid and participants from the 1st bid were taken to the next stage of evaluation. Ms. Sangeeta Welinkar, is not a signatory of the minutes of the Evaluation Committee dated 15.04.2010, even though she is a signatory on the technical bids envelopes which were opened the same day.

37. The members of the Evaluation Committee, wrongly considered the financial and other technical data of M/s CDIL as that of M/s PBPL even though M/s PBPL and not M/s CDIL was the bidder for the M & L Programme.

38. The Commercial bids for the 2nd RFP were opened on 27th April, 2010 in presence of the members of the Evaluation Committee and the representatives of the bidders. The total bid

amount was Rs.4,69,49,002/- (though it was calculated to be Rs. 4,67,00,232/-, a typographical error) including the bids of Rs. 2.45 Crores of M/s PBPL in two categories i.e. Sportswear and Toys. As such the total of highest bids of the remaining parties was Rs. 2,24,49,002/-. It was recommended vide the said note that the bidders with the highest commercial offer (i.e. Royalty) for each product category and offering maximum product category would be considered for awarding the license on the category exclusively basis. There was no bidder in Casual wear, Electronics Goods and Confectionery categories. Another note dated 30.04.2010, was put up by Ms. Ambika Ahuja duly approved by Dr. Sanjay Mohindroo, recommending negotiations with the highest bidder in each category, on one-to-one basis which was duly approved by the CEO on 03.05.2010.

39. Thereafter, a meeting of the FA, presided by the CEO was held, which is detailed in the note dated 01.05.2010. It was discussed that the 17 applicants had qualified in the Technical Evaluation and were through the commercial bids and that they should be called for negotiations. It was also discussed that only one bid had been received for the Sole concessionaire for Games- Time official Retail Concessionaire etc. Thereafter, M/s PBPL issued a letter vide no.

PBPL/10/CWG 10 dated 04.05.2010 wherein they offered a minimum guarantee of Rs. 5.35 crores “to acquire the rights without any category classifications or limitations”. They had given a lump sum offer without any details for the quotations for the individual products/categories.

40. Soon thereafter the negotiations/meet was held by the Evaluation Committee with the representatives of the bidders on 06.05.2010 whereafter the Evaluation Committee submitted its report on 12.05.2010. It is revealed from the minutes of the committee meet, the commercial bids of the 17 shortlisted parties were opened on 27.04.2010. The offers made by all 16 successful bidders after negotiation i.e. except that of M/s PBPL was discussed separately in the said report and the offer of M/s PBPL offering Rs. 5.20 Crores across all the categories/items in continuation to the 2nd RFP was mentioned separately in the report. This offer of Rs. 5.20 Crores was submitted by M/s PBPL vide their letter No. PBPL/15/CWG04 dated 06.05.2010 which was considered and accepted by the members of the Committee, even though there was no provision of a Master Licensee nor the offer of M/s PBPL was substantially or significantly higher than that of the other bidders. The offer of M/s PBPL was only marginally higher than the bids of other bidders in all the categories. Despite this the members of the

Evaluation Committee deliberately recommended the name of M/s PBPL for grant of a Master License to them for all the products/products categories. The revenue that would have accrued to the OC post negotiations was Rs. 5,00,65,640/- whereas the license to M/s PBPL was recommended against Rs. 5.20 Crores which is not 15% over and above all the bids put together, as offered by them vide their letter M/s PBPL/10/CWG 05 dated 27.04.2010. the members of the Tender Committee also over looked the offer of Rs. 5.35 Crores as made by M/s PBPL vide letter no. PBPL/10/CWG 10.

41. That the members of committee had recommended to accept the offer of M/s Premier Brands Pvt. Ltd. as Master Licensee on payment of Rs. 5.20 Crores. Of this amount, Rs. 2.60 Crores (50% of the minimum Guarantee) was to be paid on the date of signing of the agreement, Rs. 1.56 Crores (30% of the minimum guarantee) to be paid on the earlier of the date of release of products and the remaining Rs. 1.04 Crores (20% of the minimum guarantee) to be paid on or before 30.09.2010. Further more, M/s PBPL was required to pay the 50% amount at the time of execution of the agreement and the remaining 50% was to be secured in the form of a Bank Guarantee from a leading financial institution approved by the OC, to be submitted by M/s PBPL. Members of the committee also recommended to

allow award of additional categories/items, provided that the party pays royalty for the new products/categories, for which it would need specific approval of the OC. The committee did not specify the royalty amount. Minutes/Report of the Evaluation Committee dated 12.05.2010 was put up before the SAC by Sh. M.Jeychandren, as per the directions of the CEO on 18.05.2010, for approval. The recommendations of the SAC were approved by the SAC the same day i.e. on 18.05.2010.

42. On the very next day i.e., 19.05.2010, the Letter of Acceptance (LOA) was issued to M/s Premier Brands Pvt. Ltd. with Enclosure-I, which was accepted by a representative of the said company. M/s PBPL also issued separate letter of acceptance vide No. PBPL /10/CWG 22 dated 27.05.2010. The enclosure contained the details of the products/categories of products with specific amount against each, totalling to Rs. 5.20 Crores, which are the same as the contents of enclosure to the letter dated 06.05.2010 of M/s PBPL. The party was also required to submit a BG of Rs. 2.60 Crores on the signing of the Long Form Agreement (LFA). Thus, the total amount of royalty coming forth from the award of Merchandising and Licensing rights as also the Concessionaire rights to M/s PBPL, was Rs. 7.05 Crores (Rs. 5.20 Crores + 1.85 Crores).

43. Thereafter, M/s PBPL issued a number of letters for grant of additional rights as also for threatening to withdraw from the programme. Accordingly, Sh. M.Jeychandren on 22.06.2010 moved a note to the SAC recommending that additional Licensee rights for new products/categories be granted to M/s PBPL. It was proposed by Sh. Jeychandren that additional categories could be granted to the party if they pay upfront royalty fee of Rs. 2.00 Crores at the time of signing the LFA/MOU and additional products /categories to be added in the program only after obtaining prior approval from OC by giving 5 days time for such approval and indicated estimated sales for such items. The SAC approved the same whereafter a letter dated 29.06.2010 was issued to M/s Premier Brands Pvt. Ltd. by Sh. M.Jeychandren, OSD (Revenue) allowing them "rights to additional categories" for a minimum royalty amount of Rs. 2 Crores, which was payable to the OC at the time of signing the LFA. Sh. Jeychandren, however, failed to ensure that the payment was made by M/s PBPL even though the OC had not received any money despite having granted all the rights to M/s PBPL .

44. Sh. Suresh Kumar Seengal of M/s PBPL despite having received the Drafts of the LFA on several occasions during June/July 2010, did not submit a signed copy of the

same to the OC. Sh. M.Jeychandren had issued a letter addressed to M/s PBPL, stating therein that "*The OC will shortly provide an updated draft*" of LFA. However, it was clearly informed to Sh. Suresh Kumar Seengal that the proposals of M/s Premier Brands in respect of Airtel and Apollo Tyres were not acceptable to the OC as these proposals necessarily involved co-marketing activities which were reserved to official sponsors of the OC only. Despite this M/s Premier Brands kept on pressing for getting the licensing rights for these additional categories. M/s Premier Brands Pvt. Ltd. thereafter immediately issued a letter of withdrawal vide No. PBPL/10/CWG 69 dated 02.07.2010 vide which M/s PBPL decided to withdraw its offer for providing additional guarantee of Rs. 2 Crores. M/s PBPL issued several letters to the OC which are coercive in nature through which M/s PBPL was trying to get approvals from the OC for such categories which were not purely falling in the category of Merchandising and Licensing for merchandise.

45. In the meantime, a legal notice dated 05.07.2010 was served by M/s SMAM on M/s Total Sports Asia. M/s Total Sports Asia (Total Sports & Entertainment Ltd.) was doing the liaisioning work for M/s Premier Brands Pvt. Ltd. It was alleged by M/s SMAM that they (M/s SMAM) were engaged

by the OC, CWG 2010 Delhi as (a) Marketing strategy services consultants (b) sole and exclusive negotiator and procurer of sponsorship and licensing contracts and (c) exclusive supplier of sponsorship management and licensing services which was as per the Sponsorship and Licensing Technical Services Agreement dated 25.07. It has been emphasised by M/s SMAM that they were granted the exclusive worldwide commercial rights in respect of all sponsorship and licensing services to Delhi 2010 and that no party including Delhi 2010 allegedly had the right to negotiate or procure sponsorship or licensing offers vis-a-vis, the Games, without the specific "prior written approval" of M/s SMAM. It has also been alleged that M/s TSA has transgressed the legal rights conferred exclusively on M/s SMAM and that M/s TSA should immediately cease and desist from engaging in any activity which involves procurement, solicitation, sale or attempt to sell any rights to Delhi 2010. Thereafter, Sh. Suresh Kumar of M/s PBPL sought clarification in this regard. The matter was resolved after M/s SMAM issued a letter dated 22.07.2010 addressed to Sh. M.Jeychandren, wherein Mr. Martin Benson of M/s SMAM has informed that they have withdrawn the notice and that all matters between TSA and SMAM stand closed for the time being. It was later clarified that the rights given to M/s SMAM only pertained to the Sponsorship and not with

Merchandising and Licensing.

46. Sh. Suresh Kumar took advantage of this situation arising out of the serving of a legal notice by M/s SMAM on M/s Total Sports Asia and he issued another letter dated 09.07.2010, with reference to the legal notice served by M/s SMAM. Vide this letter Sh. Suresh Kumar regretted that they would be left with the only option to withdraw from the entire event. However, on the other hand, he also issued a letter on the same day i.e., July 9, 2010 that urgent clarification required towards terms, usage under the agreement which go to show that on the one hand he threatened to withdraw from the entire event and on the other hand, the same day he sought advice from OSD (Revenue) for advertisement and showed his desire for launch of products on 15.07.2010.
47. An office note dated 17.07.2010 was moved by Sh. M.Jechandren, OSD (Revenue) for approval (a) To accept M/s PBPL's offer to enhance the minimum guarantee to Rs. 25 Crores (b) to authorise and approve within 24 hours proposals received from M/s PBPL for including new products/categories (c) to send a revised LFA to M/s PBPL relating to master Licensees and their sub licensees concerned and (d) to appoint M/s Vigneshwara Development Pvt. Ltd. and M/s Apollo Tyres

as licensees, whereafter letters of acceptance for additional categories was issued to M/s PBPL by Sh. M. Jeychandren the same day i.e., on 17.07.2010 addressed to M/s Premier Brands Pvt. Ltd.

48. That M/s PBPL thereafter, issued other letters for getting approval of OC for additional categories/products like “ Cooking Oil” of M/s Adani Wilmar Ltd., Musical Instruments Category of M/s Synergy House, Multifunctional Headgear Products of M/s Nexbase Marketing Pvt. Ltd. The following final decisions were taken at the meeting dated 03.07.2010 as per the proposal of Sh. M.Jeychandren, which had the approval of the Chairman, OC:-

(A) Approved Minimum Guarantee of Rs. 5.2 Crores for the products/categories as per the letter of acceptance issued on 19.06.2010. The minimum Guarantee was to be paid as 50% Upfront at the time of signing of the MOU and the balance 50% in the form of Bank Guarantee.

(B) Approved additional Minimum Guarantee of Rs. 2 Crores for products/categories not covered in the Letter of Acceptance dated 19.05.2010 to be paid upfront at the time of signing MOU.

(C) For all generic products/categories, Premium Brands to submit proposals indicating the expected sales/minimum guarantee and percentage of revenue beyond the minimum guarantee payable to OC.

(D) For all products /categories/services where dual branding and sub-licensing arrangements are involved, then the revenue shared between OC and Premier Brands will be in the ratio 50:50 (w.e.f. 30.07.2010).

(E) OSD (Revenue) to be authorized to give approval for proposals under (3 & 4) above, within 24 Hours.

49. Soon thereafter on 02.08.2010 in principle approvals for the Home ware for M/s National Textiles Corporation and FMCG categories for M/s Adani Wilmar were granted to M/s PBPL by Sh. M.Jeychandren, the then OSD (Revenue).

50. That on 06.08.2010 Sh. Neel Chatterjee, who was already working as OSD (Communications) took over the additional charge of head of M & L FA, after departure of Sh. M.Jeychandren. Sh. Suresh Kumar, Chairman PBPL had

approached Sh. Neel Chatterjee for getting a fresh letter of approval issued in respect of Real Estate Category confirming M/s Vigneshwara Developwell as a licensee in the said category with a promise of additional Rs. 1 Crore from the Real Estate Category. This was approved on dated 11.08.2010 when a letter was issued for in this regard based on approval granted by SAC, earlier.

51. Since there had been a lot of delay in launch of the programme and as time was running short, the different sub-licensees started withdrawing from the programme, as also they were not able to sell their products from the outlets made at the Jawaharlal Nehru Stadium as the same had been barred by Delhi Police due to Security Concerns, the parties either paid only part of the committed royalty amount or demanded part or full amount to be reimbursed to them. Moreover stocks of most the licensees got stuck up at the stock yard of M/s PBPL /M/s Vaishali Enterprises. M/s PBPL has realised total royalty amount of Rs. 50,850, 650/- from different Sub-licensees.

52. The date of launch of Merchandise was fixed for 09.08.2010 and the same was postponed a number of times. On 13.08.2010, Sh. Suresh Kumar, in order to exert undue influence on Sh. Neel Chatterjee, gave a telephonic call to him

informing that he had an offer from M/s Airtel for a sum of Rs. 5 Crores as a licensee and the same should be approved by the OC by 5 PM the same day ie. 13.08.2010 which was declined by Sh. Neel Chatterjee OSD (Revenue) after he consulted on the matter with Sh. Lalit Bhanot, the then SG on the grounds that the SAC had earlier rejected a proposal of Airtel in this regard. Sh. Suresh Kumar tried to make another attempt to get his work done by again giving a telephonic call to Sh. Neel Chatterjee at about 6 PM the same day informing him that if the Airtel approval was not granted, he would withdraw from the Merchandising and Licensing programme and that he would go to the media with this news followed by an e-mail dated 13.08.2010 (19.41 hrs.) from him addressed to Sh. Neel Chatterjee and others members of the OC, herein it had been stated that they "confirm to officially withdraw themselves from the licensing and merchandising and sole concessionaire deal". Sh. Suresh Kumar, when understood that he would be at a loss by not participating in the said programme, again sent an e-mail dated 19.08.2010, to the members of OC including Sh. A K Mattoo, Treasurer wherein he agreed to come on board and continue with the M & L programme but with riders. He had agreed to pay 50% agreed value i.e. Rs. 2.60 Crores immediately and the balance by 31.10.2010. Sh Suresh Kumar shot another e-mail dated 21.08.2010 to the OC CWG

wherein he reduced the minimum guarantee amount from Rs. 7.05 Crores (Rs. 5.25 +1.85) by 50% amounting to Rs.3.525 Crores.

53. In the meanwhile in order to find a way out a meeting was held to discuss the way forward on Merchandising and Licensing, which was attended by Secretary General, Treasurer, DG, JDG (Sponsorship) FA Head Merchandising and Licensing, ADG Legal and Director (M&L). The issue of awarding rights with regard to M/s Airtel to Sh. Suresh Kumar and other related issues were discussed which were summarised in the Minutes dated 20.08.2010, issued under the signatures of Sh. Neel Chatterjee, OSD (Revenue and Communications). It had been agreed in the meeting that OC was justified in not granting licensing rights to M/s Airtel, however, it also agreed that the games could not go on without a merchandising programme and that increasing negativity in the media would aggravate the situation and lower the brand value of the games. It was also agreed that due to lack of time an RFP process for appointment of a new Master Licensee would realise little value from Merchandising sales. It was decided to renegotiate with M/s PBPL for launch of the Merchandise programme urgently with the mandate of the original RFPs. By now, it was becoming clear that as time kept

running out to the lead up to the Games and M/s PBPL had some inventory of Merchandise, they continued to increase their leverage and their coercive tactics on the OC clearly gaining the upper hand in all negotiations as the OC was in a situation of No-comeback.

54. Under these circumstances, it was decided by the FA to get the approval of the Executive Board with regard to the revised offer of Rs. 3.525 Crores of M/s PBPL which was done on 25.08.2010 and the matter of approval of the Agency for Merchandising was placed before the 25th Meeting of the Executive Board of the OC dated 27.08.2010. The following resolutions were adopted by the Board.

(1) EB resolved to approve revised Minimum Guarantee of Rs. 2.60 Crores offered by M/s Premier Brands Pvt. Ltd. for merchandising items in the 17 listed categories.

(2) EB resolved to approve revised Minimum Guarantee of Rs. 0.925 Crore offered by M/s Premier Brands Pvt. Ltd. for online retail and games time concessionaire.

(3) EB resolved to approve the proposal for continuing with the additional licensing programme on non-exclusive basis and

case to case basis to a Maximum guarantee of Rs. 2 Crores with a cap on the number of sub-licensees.

(4) EB resolved to approve that the OC should simultaneously 'Open up' the licensing domain for 'Direct to OC' offers from principals or other Agencies as well, to widen its scope of competitive licensing revenue.

55. Thereafter in accordance with the approval of the Executive Board, letter dated 31.08.2010 was issued in favour of M/s PBPL. As per this letter the total minimum guarantee amount was Rs. 3.525 Crores i.e, Rs. 2.60 Crores for the 17 Categories as per the RFP and Rs. 0.925 Crores for the online and retail concessionaire. M/s PBPL was required to pay Rs. 1 Crore upfront, at the time of signing the acceptance letter and the remaining amount of Rs. 2.525 Crores as posted dated cheques dated 30.09.2010 or earlier which was also to be submitted at the time of signing of this letter which had been done in consultation with Sh. Suresh Kumar. The LFA was required to be signed within 7 days of signing of the said LOA. Sh Suresh Kumar gave a letter the same day enclosing therein two cheques as detailed in the said letter. However, in violation of the OC letter dated 31.08.2010 and with intention not to pay the OC, Sh. Suresh Kumar issued the cheque no. 608948 for

Rs. 1 Crore, with request to present the cheque for encashment, on signing of the LFA. Sh. Suresh Kumar had also requested Sh. Neel Chatterjee to present Rs. 1 Crore cheque for encashment not prior to 6/7.09.2010 as he was required to transfer funds. Sh. Neel Chatterjee not foreseeing the ill intents of Sh. Suresh Kumar and in order to avoid any further complications, in consultation with the Treasurer, Sh. A K Mattoo decided to accede to his request. However, even after the first week of September, Sh. Suresh Kumar continued to request for some more time before the cheque could be encashed. In the mean while, the Merchandise had been launched. Since Sh. Suresh Kumar was not committal on paying Rs. 1 Crore amount, the FA had no choice but to present the said cheque no. 608948, dated 31.08.2010, to their bank, for payment on 14.09.2010, which bounced for lack of funds. The other cheque no. 608950 dated 31.09.2010 (post dated) amounting to Rs.2,52,50,000/- (Two Crore Fifty Two Lacs and Fifty Thousand only) also was later deposited in the bank, however, both the cheques were dishonoured by the concerned bank i.e., State Bank of Patiala, due to lack of funds or stop payment orders by the client, M/s PBPL.

56. In the meanwhile the M & L FA had also finalised the LFA, whereafter it was sent to him for signing by 18.09.2010. Sh.

Suresh Kumar, however, did not intend to sign the LFA as this would commit him for paying the upfront royalty amount of Rs. 1 Crore for which he gave a number of excuses for not submitting the signed copy of the LFA to the OC. Sh. Suresh Kumar also issued an e-mail dated 23.09.2010, threatening to withdraw from the programme.

57. It is further stated that despite the efforts made by the FA head Sh. Neel Chatterjee, Sh. Suresh Kumar did not sign and submit the LFA to the OC and also did not release the payments to the OC. M/s PBPL was, however, allowed to continue with the programme since the shops had already been set up at the Games Village and the Games Hotel and International athletes and officials were purchasing items.

58. Commonwealth Games Delhi 2010 began on 03.10.2010 and the opening ceremony was held at Jawaharlal Nehru Stadium, New Delhi. M/s Premier Brands Pvt. Ltd. had entered into an agreement with M/s Vaishali enterprises for setting up 25 Concessions at various Games and non-game venue. The concessions/stores at Games Village, Ashoka Hotel Media House, Pragati Maidan had started functioning even before the start of the Games on 03.10.2010. However, out of the required 25 stores, only 16 stores were operationalized by

M/s PBPL, which were managed by M/s Vaishali Enterprises. The stores at the Nehru Stadium, started functioning by the afternoon on the date of opening of the Commonwealth Games on 03.10.2010. The stores at the J N Stadium were initially selling all the items of merchandise, however, when the spectators carried these items inside the stadium and accordingly the sales at these stores had to be stopped on intervention by Delhi Police as the items of merchandise also included mugs and plates and other hard objects as also the 'Vuvuzellas' as they made a lot of noise.

59. That for effecting the online sales merchandise M/s PBPL engaged M/s Avenues India Pvt. Ltd., Mumbai for getting the payment gateway for the online retail business. The total revenue generated from the online sales of the merchandise was Rs. 58,757/- during the period from 25.09.2010 to 07.10.2010 which was credited to the account no. CA 65080586904 (State Bank of Patiala) of M/s Premier Brands.

60. It is further alleged in the charge-sheet that V.K. Verma was holding dual charge of Director General, OC, CWG 2010 and President, Badminton Association of India (BAI) simultaneously during the relevant period. Sh. V.K. Verma was at the helm of affairs, so far as "Revenue" department in OC

was concerned till mid November, 2009. By mid January 2010, Sh. V.K. Verma got in touch with M/s Total Sports and Entertainment Pvt. Ltd.(The Indian arm of M/s total Sports Asia) whom he gave assignment for locating a possible Sponsor for the Indian Badminton Team. In this regard M/s Total Sports and Entertainment Pvt. Ltd., got in touch with Sh. Suresh Kumar of M/s PBPL and sent them a proposal for sponsorship in this regard. The total deal annual outlay with the combined package of title sponsorship of team plus presenting sponsorship of Asian Badminton Championship was Rs 2.5 Crores + Service Tax as applicable. Since the deal was in principle agreeable to M/s PBPL they sought a meeting with Sh. V.K. Verma. Thereafter, Sh. Tuhin Mishra of M/s total Sports and Entertainment Pvt Ltd. sent an e-mail dated 16.01.2010 addressed to Sh. V.K. Verma. As meeting was proposed to be held on 22nd January between representatives of total Sports Asia, Premier Brands and Sh. V.K. Verma. As scheduled, the said meeting was held on 22.01.2010 which was attended by Sh. V.K. Verma at CWG office at ND City Center Tower.

61. It is further alleged in the charge-sheet that V.K.Verma accompanied Suresh Kumar to Hyderabad where Sh. Suresh Kumar met the National Badminton Players at Gopichand

Academy on 10.02.2010. Here only Sh. Suresh Kumar made the announcement of the deal between Premier Brands and BAI, in presence of all the players and Sh. V.K. Verma. Thereafter, a felicitation function cum Press Conference was organised by M/s Premier Brands at Hotel Ashoka, New Delhi on 19th February, 2010 in which leading badminton players had been felicitated and officials of M/s Premier Brands and BAI and here also Sh. Suresh Kumar met Sh. V.K. Verma. A formal announcement of the deal for sponsorship of Badminton Team India between M/s PBPL and BAI was made in presence of all the players and the officials of BAI, TSA and PBPL.

62. It is alleged in the charge-sheet that the meetings between Sh. Suresh Kumar and Sh. V.K. Verma culminated in the annulling of 1st RFP on 24.02.2010 by the Sponsorship Approvals Committee, at the initiative of Sh. V.K. Verma. The letter no. PBPL/10/IHF 01 dated 24.02.2010 addressed to the Chairman, OC, CWG 2010 pertaining to the offer of cash reward and sponsorship offer for Indian Hockey Team players and coaches, was issued by M/s PBPL, is a document quite relevant in this regard. Even though this letter is addressed to the Chairman OC, the letter was handed to Sh. V.K. Verma and the same is available in the file of BAI. It is important to note that it is the same day on which the 1st RFP was annulled by

the SAC Thus Sh. V.K. Verma was accommodating M/s Premier Brands at personal level. Thereafter again on 10th of April, 2010, a press conference was organized at Hotel Ashoka on the occasion of Asian Championship, held in Delhi from 12 to 18 April, 2010 by Sh. Suresh Kumar where he met Sh. V.K. Verma.

63. The Agreement for sponsorship between M/s Premier Brands and BAI, was signed only on 06.05.2010 even though BAI had sent the draft Deal Memo to Sh. Suresh Kumar in February 2010 itself. The deal was for a sum of Rs. 7.50 Crores, to be paid over a period of three years i.e., Rs. 2.50 Crores by M/s PBPL. M/s PBPL paid a sum of Rs. 61,25,000/- vide cheque no. 146373 dated 02.06.2010, to BAI as the first installment of the deal amount for the first year. Importantly, 06.05.2010 was the date on which M/s PBPL had been called for negotiations in respect of M & L RFP, along with other bidders to the OC office which was attended by Sh. Suresh Kumar.

64. M.Jeychandren, the then OSD (F & A) was initially heading the Finance FA and in his capacity as the Finance Head, he was a member of the Evaluation Committee during the 1st RFP evaluation process. During the 2nd RFP process,

he was out of the Finance FA and was heading the M & L FA after departure of Dr. Sanjay Mohindroo in May 2010. As the head of M & L FA he had influenced the other members of Evaluation Committee for getting M/s Premier Brands Pvt. Ltd., technically qualified even though they were technically not qualified. He also impressed upon the other members of the Evaluation Committee during the commercial evaluation process and even though M/s PBPL was a bidder like all other bidders in the 2nd RFP, he allowed them to submit additional bid for all the categories as Master Licensee without giving a similar opportunity to other bidders. He also impressed upon other members of the Evaluation Committee for allowing M/s PBPL to be the Master Licensee with a plea that it would be easier to handle one Licensee instead of handling several Licensees despite the fact that the RFP did not have such a provision. Moreover, he did not consider the offer of Master Licensee of M/s Sahara India, for an amount of Rs. 10 Crores, though he was heading the FA when decision for making M/s PBPL the Master Licensee, was being taken. He also did not take abundant precaution so that the OC could realise the Royalty amount from M/s PBPL, while granting additional rights to M/s PBPL, due to which the OC was put to a loss to the extent of the royalty amount that was required to be paid by M/s PBPL to the OC.

65. The members of the Evaluation Committee recommended the name of M/s PBPL as qualified in the Technical Evaluation during the 2nd RFP, despite the fact that they did not score the required 500 marks out of 1000. They also recommended the name of M/s PBPL as Master Licensee despite the fact that there was no such provisions for a Master Licensee in the RFP document, deliberately flouting the guidelines contained in the RFP document, with intention to favour M/s PBPL. A similar opportunity was not granted to any of the other bidders despite the fact that initially M/s PBPL was also a bidder like other bidders who had bid for different categories of items.

66. That Sh. V.K. Verma, the then DG, OC, CWG 2010 and other members of the Evaluation Committee (for the 2nd RFP) entered into a criminal conspiracy with Sh. Suresh Kumar Seengal of Premier Brands Pvt. Ltd., and in furtherance of the said conspiracy Sh. V.K. Verma, deceitfully got the 1st RFP annulled through the SAC on 24.02.2010 thus paving the way for fresh tendering whereby M/s PBPL was allowed to participate in the renewed bid process. The members of the Evaluation Committee namely Sh. M. Jeychandren, then then OSD (F & A) , Sh. Ram Mohan, Dy.DG(Legal), Sh.Surjit Lal, the

then Dy. DG (Procurement), Gp Cap. K Uday Kumar Reddy, the then ADG (F & A) and Ms. Sangeeta Welinkar, the then ADG (Image & Look), public servants abused their official position and extended undue favour to M/s Premier Brands Pvt. Ltd. whereby the said company was declared technically qualified by the members of the Evaluation Committee, even though they were not technically competent and allowed them to participate in the commercial bid. Furthering the conspiracy the bids of all other bidders were by passed by the Evaluation Committee by allowing M/s Premier Brands Pvt. Ltd. to become the Master Licensee for a moderate Royalty amount of Rs. 5.20 Crores, which was against the prescribed norms. They were also granted the rights for the Sole Concessionaire for a consideration of Rs. 1.85 Crores, bringing the total amount to Rs. 7.05 Crores.

67. Sh. Suresh Kumar Seengal, Director, M/s Premier Brands Pvt. Ltd. deceitfully obtained the Master License for all the items/categories of items and also got the Royalty amount reduced by half by employing dilatory tactics with the officials of the OC. Though as per the Master Licensee requirements M/s Premier Brands Pvt. Ltd. was required to use the licenses for bringing out the required merchandise in the market, as per the categories of items prescribed in the RFP M/s Premier Brands

Pvt. Ltd. , instead of using the IP rights so obtained, sold the rights to interested parties at a high premium. Despite having sold the licenses to a number of parties and having collected royalty amount to the extent of Rs. 5,08,50,650/- and revenue collected from the online sales to the extent of Rs. 58,757/- (totalling to Rs. 5,09,09,407/-) M/s Premier Brands Pvt. Ltd. deliberately did not pay any money to the Organising Committee, CWG 2010, even though the final mutually agreed amount of minimum royalty that was required to be paid to the OC was halved to Rs. 3.525 Crores, after the matter was re-negotiated between the two parties due to the constant hindrances caused by M/s PBPL with the threats to withdraw themselves from the entire programme on a number of occasions. As such the OC CWG 2010 was put to a loss of Rs. 3.525 Crores as a result of the above said criminal conspiracy. M/s PBPL despite having used the intellectual property (i.e., the brand properties of the OC) granted to it by the OC CWG, i.e., 'Delhi 2010' logo, 'CWG 2010 Mascot- 'Shera', Games Pictographs, Signature Elements and Team India logo, did not pay the OC CWG its due.

68. The aforesaid acts of the accused persons thus caused wrongful loss to the government exchequer to the tune of Rs. 3.525 Crores and corresponding gain to Sh. Suresh Kumar

Seengal, Director M/s Premier Brands Pvt. Ltd. , M/s Premier Brands Pvt. Ltd. and M/s Compact Discs India Ltd., and thereby the said Sh. V.K. Verma, the then DG, Sh. M. Jeychandren, the then OSD (F&A), Sh. Ram Mohan, ADG (Legal), Sh. Surjit Lal, the then Dy. DG (Procurement), Gp Cap. K Uday Kumar Reddy, the then ADG (F&A) and Ms. Sangeeta Welinkar, the then ADG (Image and Look), all of the Organizing Committee, CWG 2010 and Sh. Suresh Kumar Seengal, Director M/s Premier Brands Pvt. Ltd., M/s Premier Brands Pvt. Ltd. (through Suresh Kumar Seengal, Director) and M/s Compact Discs India Ltd. (through Suresh Kumar Seengal, MD) committed offences punishable under Section 120B IPC r/w 420 IPC and Section 13(2) r/w 13(1) (d) of P C Act, 1988 and substantive offences thereof.

69. I have heard Ld. Counsels for the accused as well as Ld. PP for CBI.

Contentions of Ld. Counsel for CBI

70. Ld. Counsel for CBI contended that there is a deep rooted conspiracy amongst the accused persons and the accused persons have committed offences U/S 13(1)(d) of P.C. Act, 420

IPC and U/S 120B IPC. Ld. Public Prosecutor contended that accused no.1, had conspired with other accused persons and had got the first RFP (Request For Proposal) annulled by raising false ground that approval of OCFC (Organizing Committee Finance Committee) was required while, in fact, no such approval was required and the accused no.1 had raised this objection as accused no.8, M/s Premier Brands Pvt. Ltd., was not the participant/applicant in the aforesaid first RFP.

71. Ld. Public Prosecutor further contended that accused no.1, V.K. Verma, has further sent an e-mail dated 11.03.2010, reiterating about need of approval of OCFC for first RFP, although, he was not at all concerned with the said RFP being not associated with revenue functional area dealing with Merchandising and Licensing (M&L). Accused no.1 has made every effort and succeeded in granting favour to the accused no. 8 in getting the contract of Merchandising and Licensing as well as of concessionaire. It is also submitted that accused no. 2 to 6 also conspired with accused no.1 and accused no. 7 to 9 and shown the accused no.8, to be qualified during technical evaluation although accused no.8 (M/s Premier Brands Pvt. Ltd. (PBPL)) was not at all eligible as it did not get the minimum 500 marks out of 1000 marks to qualify for Commercial Evaluation. Ld. Public Prosecutor submitted that accused no.8,

M/s Premier Brands Pvt. Ltd., was shown to have been given 230 marks although it was a newly incorporated company and was not even worthy of getting 230 marks. It is submitted that accused no.9, M/s Compact Disc India Ltd., which is stated to be the parent company of accused no.8, M/s Premier Brands Pvt. Ltd. (PBPL), but there is nothing on record to show that accused no.8 is the subsidiary company of accused no.9, M/s Compact Discs India Ltd..

72. Ld. Counsel for CBI further contended that during commercial evaluation, accused no. 2 to 6 further conspired to grant Master License for Merchandising and Licensing to the accused no.8, M/s Premier Brands Pvt. Ltd., although, in second RFP, there was no provision for appointment of Master Licensee for Merchandising and Licensing and accused no. 2 to 6 granted favour to the accused no. 7, 8 and 9 while other applicants were not granted such opportunity.

73. Ld. Public Prosecutor further submitted that necessary sanction was obtained for prosecuting accused no. 3 & 5 as they were holding the office of public servant at the time of filing of charge-sheet. Ld. Public Prosecutor also submitted that in the Sanction Order, it is clearly written "*for any other offence committed*", which covers any offence committed by the

accused persons under any law other than Prevention of Corruption Act. Ld. Public Prosecutor submitted that sanction U/S 197 Cr.PC was not required as the act committed by aforesaid accused persons was not done in discharge of their official duties or under the colour of duties. Ld. Public Prosecutor also submitted that the issue whether accused no. 3 and 5 had committed aforesaid offences during the discharge of their duties or under the colour of their duties can only be decided after leading the evidence.

74. Ld. Public Prosecutor further submitted that accused no.2, M. Jeychandren has since exited from OC as his service contract was till 15.03.2011, hence, no sanction was needed for prosecuting accused no.2.

75. Ld. Counsel for the CBI relied upon the judgments (1) *Choudhury Parveen Sultana Vs. State of WB & Anr.* 2009 *Crl.L.J. 1318* and (2) *P.K. Pardhan Vs. State of Sikkim*, 2001 *Crl.L.J. 3505*.

Contentions of Accused No.1, V.K. Verma

76. Ld. Counsel for accused no.1 contended that no offence has been committed by the accused and he has not abused his

official position at any point of time. Ld. Counsel for accused no.1 submitted that annulment of first RFP in SAC meeting held on 24.02.2010, did not pave the way for fresh tendering to allow M/s Premier Brands Pvt. Ltd. to participate in the renewed bid process. Ld. Counsel for accused no.1 further submitted that process for second RFP was initiated as early as on 05.01.2010, vide a note of PW-22, Ms. Sweety Patel, Project Officer (Licensing & Merchandising), which was subsequently approved by CEO on 22.01.2010, hence, it cannot be said that annulment of first RFP by the SAC on 24.02.2010 paved the way for fresh tendering.

77. It is further submitted by Ld. Counsel for accused no.1 that as per Note dated 10.03.2010 of the Revenue FA, M/s Premier Brands Pvt. Ltd. was shortlisted by Revenue FA along with 30 other vendors based on their response to EOI and accused no.1 had no role to play being not the part of Evaluation Committee, therefore, it cannot be said that accused no. 1 has granted any favour to accused no. 7, 8 and 9. Ld. Counsel for accused no.1 further submitted that accused no.8, M/s Premier Brands Pvt. Ltd., at one point of time, had even withdrawn/pulled out of Merchandising and Licensing. Sh. A.K. Mattoo (Treasurer of OC) and Mr. Neel Chatterjee (L&M Head), negotiated a new commercial proposal with M/s PBPL on

25.08.2010 on completely different payment terms.

78. It is further submitted by Ld. Counsel for accused no.1 that some of the officials of the OC had ignored the directions of the Executive board for securing the payment and deliberately delayed the deposit of the cheque dated 31.08.2010 besides agreeing for accepting the cheque in place of draft or other safe mode, and thus caused loss to the OC because of dishonour of the cheques given by accused no.8, M/s Premier Brands Pvt. Ltd..

79. Ld. Counsel further submitted that as per prosecution case, accused no.1 had met the accused no.7 on 22.01.2010 while the process for re-tendering had already initiated on 05.01.2010, therefore, it cannot be said that accused had got the earlier RFP cancelled in order to accommodate accused no.8, M/s Premier Brands Pvt. Ltd.. Ld. Counsel for accused submitted that accused no.1 had no role to play in the bid evaluation process i.e. technical and commercial bids. It is also contended by Ld. Counsel for accused that final decision was taken by the CEO and accused no.1 cannot be held liable for the annulment of first RFP.

80. Ld. Counsel for accused further submitted that e-mail

dated 11.03.2010, detailing course of action and giving reasons for approval of RFP in OCFC was sent for discussion with CEO who was also sent a copy of this e-mail and it was sent for ensuring transparency in the process.

Contentions of Accused No. 2, M. Jeychandren and accused no.4, Surjit Lal

81. Ld. Counsel for accused no.2 contended that accused no.2 was suspended by the OC on 05.08.2010 by the Chairman, OC, and was in service at the time of filing of the charge sheet as his services has not been terminated till date, hence, sanction U/S 19 of P C Act and U/S 197 Cr.PC is a pre-condition for taking cognizance and proceeding against the accused no.2. Ld. Counsel for accused submitted that accused no.2 may be discharged on this sole ground.

82. It is further contended by Ld. Counsel for accused no.2 that accused no.8, M/s Premier Brands Pvt. Ltd., was subsidiary of M/s Compact Discs India Ltd., accused no.9 and for the purpose of technical evaluation credentials of M/s Compact Discs India Ltd., accused no.9, can be considered and when the credentials of accused no.9 are taken into consideration, it is clear that accused no.8 will qualify in the technical evaluation

and would get marks more than 500 as required to qualify in the technical evaluation. Ld. Counsel for accused no.2 further contended that M/s Compact Discs India Ltd. can be considered as primary bidder for all the purposes and no wrong has been committed by the Evaluation Committee by qualifying the accused no.8 in the technical evaluation. It is submitted that accused no. 2 and 4 did not grant any favour to the accused no.8.

83. Ld. Counsel for accused no.2 further contended that accused no.2, at every point tried to safeguard the interest of the OC and had done everything in a transparent manner in as much as, even the left out bidders were allowed to participate in the bid of second RFP and the bidders of the first RFP were also allowed in the second bid. It is submitted that entire process is followed by the Committee. It is submitted that accused no.2 put condition of royalty and prior approval in order to safe guard the interest of the OC. It is also submitted that accused no.2 had also insisted for getting bank guarantee from the bidder in order to secure payment of the OC. It is submitted that other officials of OC namely Sh. Anil Khanna, Sh. A.K. Mattoo and Sh. Jarnail Singh changed the terms and conditions accepting amount by way of cheque in place of bank guarantee and reduced the amount and there has not been lapse on the

part of accused no.2.

Contentions of Accused No.3, Ram Mohan

84. Ld. Counsel for accused no.3 addressed same arguments as addressed by Ld. Counsel for accused no.2 that M/s Premier Brands Pvt. Ltd. is subsidiary company of M/s Compact Discs India Ltd. and the Evaluation Committee did not grant any favour to accused no.7, 8 and 9. Ld. Counsel for accused no.3 submits that accused no.3 has tried to protect the interest of the OC at every level and no favour has been granted to the accused no.8, M/s Premier Brands Pvt. Ltd.. It is submitted that accused no.2 is still pursuing the case on behalf of the OC against the accused no. 7 and 8 U/S 138 of Negotiable Instruments Act and also arbitration proceedings are pending between OC and accused no.8, M/s Premier Brands Pvt. Ltd..

85. Ld. Counsel for accused no.3 further contended that sanction has been accorded U/S 19 (1)(a) for prosecution of accused no.3 for the offences punishable U/S POC Act and the same relate to offences punishable U/S 13(2) r/w 13(i)(d) of PC Act but the Investigating Agency has not sought any sanction U/S 197 Cr.PC from competent authority for prosecution of the

accused for the alleged offence punishable u/s 120B r/w 420 IPC and hence the accused no.3 is liable to be discharged.

86. Ld. Counsel for accused no.3, Ram Mohan, relied upon the judgments (1) *Quippo Oil & Gas Infrastructure Ltd. Vs. Oil & Natural Gas Corporation Ltd.*, 230 (2016) *Delhi Law Times* 384; (2) *Ankita Choudhary Vs. Guru Gobind Singh Indraprastha University*, 230 (2016) *DLT* 391 and (3) *New Horizon Ltd. & Anr. Vs. Union of India & Ors.*, (1955) 1 *SCC* 478.

Contentions of Accused No.5, Gp. Captain

K. Uday Kumar Reddy

87. Ld. Counsel for accused no.5 contended that sanction has been accorded U/S 19 (1)(a) for prosecution of accused no.5 for the offences punishable U/S POC Act and the same relate to offences punishable U/S 13(2) r/w 13(i)(d) of PC Act but the Investigating Agency has not sought any sanction U/S 197 Cr.PC from competent authority for prosecution of the accused for the alleged offence punishable u/s 120B r/w 420 IPC and hence the accused no.5 is liable to be discharged.

88. It is further submitted that accused no.5 was inducted as

a member of the Evaluation Committee on 05.04.2010 with the approval of CEO, Mr. Jarnail Singh and has nothing to do with the first RFP. It is submitted that no favour was granted by the accused no.5 to the accused no. 7, 8 and 9. Ld. Counsel for accused addressed same arguments as addressed by Ld. Counsel for accused no. 2 and 4 that M/s Premier Brands Pvt. Ltd., accused no.8, was a subsidiary company of accused no.9, M/s Compact Discs India Ltd. and accused no.8, M/s Premier Brands Pvt. Ltd., was rightly held to be qualified at the time of technical evaluation.

89. It is also submitted that accused no.5, being Additional Director General (Finance and Accounts) had no role in the management of the revenue functioning as it was a different department of OC CWG, 2010 and all the work relating to successful planning and execution of contract rested with ADG (Revenue) and other officers of the Revenue Functional Area. It is also submitted that accused no.5 had been involved in selection of bidders only for two days i.e. on the day of technical evaluation and on the day of commercial evaluation, otherwise he was so busy in finance and accounts portfolio and he was dealing with Ministry of Sports with regard to budget and 34 functional areas.

90. It is also submitted that M/s Premier Brands Pvt. Ltd. was recommended as Master Licensee, however, the applicant had no role in taking such decision because it was under the purview of ADG (Revenue) and the Committee was guided by Revenue Functional Area responsible for the whole contract and the Revenue Functional Area took the decision in consultation, CEO and other senior officials of OC and the CEO had approved the proposal of accused no.8, M/s Premier Brands Pvt. Ltd. for master licensing. It is also submitted that M/s Premier Brands Pvt. Ltd. was appointed as Master Licensee as its offer for royalty was higher than the collective offer of all the bidders and further it was considered to be easy for OC to deal with one bidder/company in place of several companies.

91. Ld. Counsel for accused no.5, K.U.K. Reddy, relied upon the judgments (1) *Devinder Singh Vs. State of Punjab*, (2016) SCC Online 357; (2) *Amal Kumar Jha Vs. State of Chhattisgarh*, (2016) 6 SCC 734; (3) *State of MP Vs. Sheetla Sahai*, (2009) 8 SCC 617; (4) *Prof. N.K. Ganguly Vs. CBI*, 2016 (1) RCR (Crl.) 98 SC; (5) *Choudhury Parveen Sultana Vs. State of West Bengal*, (2009) 3 Supreme Court Cases 398 and (6) *Firozuddin Basheeruddin & Ors. Vs. State of Kerala*, (2001) 7 SCC 596.

Contentions of Accused No.6, Sangeeta Welinkar

92. Ld. Counsel for accused no.6, Sangeeta Welinkar contended that accused no.6, Sangeeta Welinkar has been wrongly arraigned as an accused in the charge-sheet. It is submitted that accused no.6, Sangeeta Welinkar, at no point of time had abused her official position or extended undue favour to accused no.7 to 9.
93. It is submitted that on 15.04.2010, when EC conducted technical evaluation in the second RFP, accused no.6, Sangeeta Welinkar, was on leave and was not the signatory to the Minutes dated 15.04.2010. It is further submitted that on 30.04.2010, the EC conducted commercial evaluation (in second RFP), of the commercial bids which was opened on 27.04.2012 and the report dated 27.04.2010 shows that accused no.6, Sangeeta Welinkar is not signatory to it and the said documents is signed by one "Cheryl".
94. It is submitted that EC conducted negotiation for commercial bid with applicants and EC recommended accused no.8, M/s Premier Brands Pvt. Ltd., as Master Licensee on payment of Rs. 5.20 crore, which was approved by Sh. Jarnail

Singh on 18.05.2010.

95. Ld. Counsel for accused submitted that accused was not the signatory of the technical evaluation report and was only a party in negotiation by which only amount was negotiated to be Rs. 5.20 crore and along with Concessionaire Licenses, the total amount was fixed at Rs. 7.05 crore. It is submitted that recommendation dated 06.05.2010 of EC were completely changed/modified by the 25th Executive Board meeting by Minutes dated 27.08.2010, whereby, the amount was reduced to Rs. 3.525 crore and mode of securing payment was changed from Bank Guarantee to cheques. It is submitted that accused no.6, Sangeeta Welinkar, had no role to play in the grant of contract to accused no.8, M/s Premier Brands Pvt. Ltd., hence, is liable to be discharged.

96. Ld. Counsel for the accused no.6, Sangeeta Welinkar, relied upon the judgments (1) *M. Narayanan Nambiar Vs. State of Kerala, 1963 Supp (2) SCR 724* and (2) *State of MP Vs. Sheetla Sahai, (2009) 8 SCC 617*.

Contentions of Accused No.7, Suresh Kumar, accused no.8, M/s Premier Brands Pvt. Ltd. and accused no.9, M/s

Compact Discs India Ltd..

97. Ld. Counsel for accused no. 7, 8 and 9 submitted that there has been no conspiracy in the said matter and no illegal act has been done by the Committee nor any favour has been granted to the accused no.8, as there were number of companies which stood qualified at the time of technical evaluation.
98. It is submitted that accused no.8, M/s Premier Brands Pvt. Ltd., has since given higher bid for different merchandising, hence was granted the license of Merchandising and Licensing. It is submitted that there has not been any collusion on the part of accused no. 7, 8 and 9 with accused no.1 or with the other accused persons.
99. It is submitted that in fact OC could not finalize Contract with regard to different issues and same had delayed the launch of the product which caused substantial loss to the accused no. 8. It is further submitted that Delhi Police did not permit the accused no. 7, Suresh Kumar @ Seengal or the employees of accused no. 8 to enter inside the Stadium and Delhi Police had also stopped M/s Vaishali Enterprises, the Sub-licensee from

selling the products and there had been breach of contract on the part of OC regarding which arbitration proceedings are pending.

100. It is further submitted that no favour was done to the accused no. 7 to 9 and the same is clear from the fact that accused no.8, M/s Premier Brands Pvt. Ltd., had at one time withdrew its offer but on being persuaded by the OC officials, agreed to continue with the merchandising and licensing programme and concessionaire activities. However, OC had breached the contract by not fulfilling their part of terms and conditions. It is also submitted that accused did not put OC or anyone under deception and has not misrepresented any fact or concealed any fact to cause injury to OC and infact accused no.8 has suffered huge loss because of breach of contract on the part of the OC.

101. Ld. Counsel for the accused no.7 to accused no.9 relied upon the judgment *Anil Mahajan Vs. Bhor Industries Ltd. & Anr. (2005) 10 SCC 228*.

Conclusion :-

102. I have gone through the material on record.

103. At the outset, I may state that it is settled law that at the stage of framing of charge the court has to prima facie consider whether there is sufficient ground for proceeding against the accused. The court is not required to appreciate the evidence and arrive at the conclusion that the materials produced are sufficient or not for conviction of the accused. If the court is satisfied that a prima facie case is made out for proceeding further then a charge has to be framed.

104. In **2000 SCC (Cri.) 981 State of Tamil Nadu Vs. J. Jayalalitha**, it was held by Hon'ble apex court that :-

"This is not the stage for weighing the pros and cons of all the implications of the materials nor for sifting the materials presented by the prosecution. The exercise at this stage should be confined to considering the police report and the documents to decide whether the allegations against the accused are "groundless" or whether "there is ground for presuming that the accused has committed the offences." Presumption therein is always rebuttable by the accused for which there must be opportunity of participation in the trial."

105. In **2001 Cri. L. J. 1723, Smt. Om Wati and another vs. State, through Delhi Admn. and others, Hon'ble Delhi High Court observed that :-**

"8. At the stage of passing the order in terms of S. 227 of the Code, the Court has merely to peruse the evidence in order to find out whether or not there is a sufficient ground for proceeding against the accused. If upon consideration, the Court is satisfied that a prima facie case is made out against the accused, the Judge must proceed to frame charge in terms of S. 228 of the Code. Only in a case where it is shown that the evidence which the prosecution proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by defence evidence cannot show that the accused committed the crime, then the then along the Court can discharge the accused. The Court is not required to enter into meticulous consideration of evidence and material placed before it at this stage. This Court in Stree Atyachar Virodhi Prishad v. Dilip Nathumal Chordi (1989) 1 SCC 715 cautioned the High Courts to be loathe in interfering at the stage of framing the charges against the accused. Self-restraint on the part of the High Court should be the rule unless there is a glaring injustice staring the Court in the face. The opinion on many matters can differ depending upon the person who views it. There may be as many opinions on a particular point, as there are Courts but that would not justify the High Court to interdict the trial. Generally, it would be appropriate for the High Court to allow the trial to proceed".

9. Dealing with the scope of Ss. 227 and 228 of the Code and the limitations imposed upon the Court at the initial stage of framing the charge, the Hon'ble Apex Court in State of Bihar v. Ramesh Singh, (1977 Cri.LJ 1606) held as under :

"Reading the two provisions together in juxtaposition, as they have got to be, it would be clear that at the beginning and the initial stage of the trial the truth, veracity and effect of the evidence which the prosecutor proposes to adduce are not to be meticulously judged. Nor is any weight to be attached to the probable defence of the accused. It is not obligatory for the Judge at that stage of

the trial to consider in any detail and weigh in a sensitive balance whether the facts, if proved, would be incompatible with the innocence of the accused or not. The standard of test and judgment which is to be finally applied before recording a finding regarding the guilt or otherwise of the accused is not exactly to be applied at this stage of deciding the matter under S. 227 or S. 228 of the Code. At that stage the Court is not to see whether there is sufficient ground for conviction of the accused or whether the trial is sure to end in his conviction. Strong suspicion against the accused, if the matter remains in the region of suspicion, cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage if there is a strong suspicion which leads the Court to think that there is ground for presuming that the accused has committed an offence then it is not open to the Court to say that there is no sufficient ground for proceeding against the accused. The presumption of the guilt of the accused which is to be drawn at the initial stage is not in the sense of the law governing the trial of criminal cases in France where the accused is presumed to be guilty unless the contrary is proved. But it is only for the purpose of deciding prima facie whether the Court should proceed with the trial or not. If the evidence which the prosecutor proposes to adduce to prove the guilt of the accused even if fully accepted before it is challenged in cross-examination or rebutted by the defence, if any, cannot show that the accused committed the offence, there will be no sufficient ground for proceeding with the trial. An exhaustive list of the circumstances to indicate as to what will lead to one conclusion or the other is neither possible nor advisable. We may just illustrate the difference of the law by one more example. If the scales of pan as to the guilt or innocence of the accused are something like even at the conclusion of the trial, then, on the theory of benefit of doubt the case is to end in his acquittal. But if, on the other hand, it is so at the initial stage of making an order under S. 227 or S. 228, then in such a situation ordinarily and generally the order which will have to be made will be one under S. 228 and not under S. 227."

10. A three-Judge Bench of Apex Court in *Supdt. and Remembrancer of Legal Affairs, West Bengal v. Anil*

Kumar Bhunja (1979 Cri LJ 1390), reminded the Courts that at the initial stage of framing of charges, the prosecution evidence does not commence. The Court has, therefore, to consider the question of framing the charges on general considerations of the material placed before it by the investigating agency. At this stage, the truth, veracity and effect of the judgment which the prosecution proposes to adduce are not to be meticulously judged. The standard of test, proof and judgment which is to be applied finally before finding an accused guilty or otherwise is not exactly to be applied at the stage of framing the charge. Even on the basis of a strong suspicion founded on materials before it, the Court can form a presumptive opinion regarding the existence of factual ingredients constituting the offence alleged and in that event be justified in framing the charges against the accused in respect of the commission of the offence alleged to have been committed by them."

106. In the case of **Kanti Bhadra Shaha Vs. State of West Bengal (2000) 1 SCC 722**, the Supreme Court has even gone to the extent of holding that there is no legal requirement that the trial court should write an order showing the reasons for framing a charge. It is quite unnecessary to write a detailed order if the proceedings do not culminate. This was considered to be a measure to avert all roadblocks causing avoidable delays.

107. Reference may also be made to the case of **State Vs. S Bangarappa 2001 CriL.J. Page 111**, where the Apex Court emphasized the need to have the limited exercise during the

state of framing charge. The court held that :-

“Time and again this Court has pointed out that at the stage of framing charge the Court should not enter upon a process of evaluating the evidence by deciding its worth or credibility. The limited exercise during that stage is to find out whether the materials offered by the prosecution to be adduced as evidence are sufficient for the court to proceed further. (vide State of M.P. Vs. Dr. Krishna Chandra Saksena, (1996) 11 SCC 439).”

108. Here it is relevant to refer **Section 120B IPC** **which reads as under :-**

*120B Punishment of criminal conspiracy. - (1)
Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.*

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.]

109. To constitute a conspiracy, meeting of minds of two or more persons for doing an illegal act or an act by illegal means is the first and primary condition and it is not necessary that all the conspirators must know each and every detail of the conspiracy. Neither is it necessary that every one of the conspirators takes active part in the commission of each and every conspiratorial acts. The agreement amongst the conspirators can be inferred by necessary implication. In most of the cases, the conspiracies are proved by the circumstantial evidence, as the conspiracy is seldom an open affair. The existence of conspiracy and its objects are usually deduced from the circumstances of the case and the conduct of the accused involved in the conspiracy. Criminal conspiracy is an independent offence in the Penal code. The unlawful agreement is sine qua non for constituting offence under the Penal Code and not an accomplishment. Conspiracy consists of the scheme or adjustment between two or more persons which may be express or implied or partly express or partly implied. Even Section 10 of the Evidence Act introduces the doctrine of agency and if the conditions laid down therein are satisfied, the act done by one is admissible against the co-conspirators.

110. Now, I turn to the contentions raised by Ld. Counsel for accused no.1, V.K. Verma. The first RFP was for Merchandising and Licensing programme in respect of 12 product categories and the second RFP was proposed for left out items. It is clear that the first RFP had attained finality and entire process was complete except signing of MOU. Accused no.1, V.K. Verma, has raised objections that approval of OCFC was required for the said RFP on which ground the first RFP was cancelled. It is not disputed that no approval of OCFC was needed for the first RFP, therefore, it is clear that accused no.1, V.K. Verma, has raised a false ground in order to get the first RFP cancelled/revoked. There does not appear any reason for the accused no.1, V.K. Verma, for raising such objection when the first RFP had almost attained finality. The process for first RFP was initiated through him and he did not note any such objection in the beginning. Accused V.K. Verma had initially suggested changes in the Draft Advertisement and RFP documents. Final approval for advertisement and further course of action to be taken, was given by accused. It is also noted that accused no.1, V.K. Verma, raised objection regarding first RFP only on 24.02.2010. Here, it is relevant to point out that accused, V.K. Verma met accused Suresh Kumar Seengal, accused no.7, on 19.01.2010 and accused no.7 had written a letter dated 01.02.2010, giving offer for securing contract

although did not participate in first RFP. Only after aforesaid development, the accused no.1 raised objection and got the first RFP cancelled. PW-50 Jarnail Singh has stated that since RFP was initiated through accused no.1, they believed that accused is rightly raising objection regarding approval of OCFC for first RFP.

111. Further, It is incorrect to say that OC has itself treated the first RFP as cancelled and for this reason second RFP was issued. It is clear from the statement of PW-1, Shefali Makkar that process for second RFP was initiated for some left out items. Statement of Mr. Sanjay Mohindroo, PW-4, shows that different methods were suggested for the left out items including direct marketing approach.

112. It is also alleged against accused V.K. Verma that Mr. Sanjay Mohindroo had made an effort to get post facto approval for first RFP but accused no.1 stated that there was no need for this and the Agenda relating to it was shown withdrawn in 22nd meeting of OC.

113. It would not be out of place to mention here that accused no.1, V.K. Verma, was not at all concerned with Revenue Functional Area dealing in Merchandising & Licensing but he

sent an e-mail dated 11.03.2010 to accused no.2, M. Jeychandren, regarding need of approval of OCFC regarding first RFP. It only shows that accused was meddling in the matter of Merchandising and Licensing Functional Area although not at all concerned with it. Aforesaid facts depicts that he was trying to do favour to the accused no. 7 to 9. PW-6, Sh. V.K. Saxena, has also stated that accused V.K. Verma was meddling in the affairs of revenue functional area and has many times held up the important files. Similar statement is of PW-4, Mr. Sanjay Mohindroo, that office of DG (Mr. V.K. Verma) had cleared the file regarding RFP for concessionaire only after cancellation of first RFP on 24.02.2010 and file came back to concerned FA only on 30.04.2010.

114. The aforesaid facts taken together clearly shows that accused no.1, V.K. Verma, was interested in bringing accused no.7, Suresh Kumar @ Seengal and his company in the bidding process for the Merchandising and License programme and had raised frivolous objection to get the first RFP annulled.

115. Ld. Counsel for accused no.2, M. Jeychandren contended that accused M. Jeychandren has been in service hence sanction to prosecute accused M. Jeychandren was required for the offences alleged against him. The prosecution has placed

on record an order dated 19.02.2010 regarding appointment of accused M. Jeychandren on contract basis in the Organizing Committee, Commonwealth Games, Delhi, 2010, as Officer on Special Duty (Finance & Accounts) w.e.f. 01.02.2010 till 31.03.2011. Further, a Note dated 15.03.2011 shows the date of exit of M. Jeychandren as 15.03.2011. Aforesaid documents shows that M. Jeychandren was employee on contract basis and his employment came to an end on 15.03.2011. The aforesaid documents prima facie shows that M. Jeychandren was not in service at the time of taking cognizance by this Court and recorded so in the order dated 08.02.2013 by my Ld. Predecessor. I am of the opinion that no sanction was required to prosecute accused M. Jeychandren for the offences alleged against him.

116. So far as the sanction to prosecute accused no. 3, Ram Mohan and accused no.5, Gp. Captain K Uday Kumar Reddy, is concerned, the competent authority has granted sanction to prosecute accused no. 3 and 5 vide its sanction orders dated 14.01.2013 and 13.12.2012 respectively. As regard the requirement of sanction U/S 197 Cr.PC for taking cognizance of offences under IPC against public servants is concerned, it is clear that the alleged acts committed by accused no. 3 and 5, cannot be said to have been done by them in discharge of their

official duty or in the purported discharge of their official duty. The said office merely provided them an opportunity to commit such an act of misdemeanor, hence, the act of entering into criminal conspiracy or that of committing cheating cannot be deemed to have been done in discharge of their official duty. Hence, the provision of Section 197 Cr.PC are not attracted in the given circumstances. Therefore, the contentions of Ld. Counsel for accused no.3, Ram Mohan and accused no.5, Gp. Captain K Uday Kumar Reddy, are without any merit.

117. Now turning to the arguments raised by Ld. Counsels for accused no. 2, 3, 4, 5 and 6 that M/s Premier Brands Pvt. Ltd. was rightly held to be qualified during technical evaluation. It is not in dispute that accused no.8, M/s Premier Brands Pvt. Ltd. was newly constituted company and did not qualify in the technical evaluation. There is nothing on record to show that M/s Premier Brands Pvt. Ltd. was the subsidiary company of M/s Compact Disc India Ltd., accused no.9. The Memorandum and Articles of Association of M/s Premier Brands Pvt. Ltd. or M/s Compact Disc India Ltd. do not mention the fact that M/s Premier Brands Pvt. Ltd. is the subsidiary company of M/s Compact Disc India Ltd..

118. Ld. Counsel for accused no. 7, 8 and 9 have placed on

record the copy of petition filed by it before Hon'ble High Court U/S 482 Cr.PC and submitted that contention raised in said writ petition may be considered as his written submission. Here it is noted that accused no.9, M/s Compact Disc India Ltd., has clearly stated that M/s Compact Disc India Ltd. is not the holding company of M/s Premier Brands Pvt. Ltd. and M/s Premier Brands Pvt. Ltd. was not the subsidiary company of M/s Compact Disc India Ltd.. Both the companies are independent companies. It is further stated in the said petition that M/s Compact Disc India Ltd. do not hold equity capital in M/s Premier Brands Pvt. Ltd. nor is in position to control the composition of Board of Directors of M/s Premier Brands Pvt. Ltd. and M/s Compact Disc India Ltd. has no privity of Contract with OC and M/s Compact Disc India Ltd. not the holding company of M/s Premier Brands Pvt. Ltd.. Here, it is also clear that only some of the Directors of M/s Premier Brands Pvt. Ltd. and M/s Compact Disc India Ltd. were same. Under the facts, it is clear that M/s Premier Brands Pvt. Ltd. was not the subsidiary company of the M/s Compact Discs India Ltd.

119. Further, the Evaluation Sheet (D-4/2, Page No.399) shows that 230 marks were awarded to accused no.8, M/s Premier Brands Pvt. Ltd.. It is not clear how Evaluation Committee has assumed that M/s Premier Brands Pvt. Ltd.

would get more than 500 marks needed to be qualified in technical evaluation. The said 230 marks were granted to M/s Premier Brands Pvt. Ltd. considering the outlet etc. of M/s Compact Discs India Ltd. No such marks or calculation is in the Evaluation Sheet. Although, in the Evaluation Sheets, calculation of marks of other companies which participated in the bid process, are given and are totalled more than 500, the evaluation have not been done in a transparent manner for M/s Premier Brands Pvt. Ltd., which was held to be qualified without showing the complete break-up of the marks.

120. Even otherwise the evaluation sheet shows the marks to accused no.8, M/s Premier Brands Pvt. Ltd. (PBPL), to be 230 but the Evaluation Sheet did not clarify about the marks if any given to both these companies i.e. accused no.8, M/s Premier Brands Pvt. Ltd. (PBPL) and accused no.9, M/s Compact Discs India Ltd. to technically qualify accused no.8, M/s Premier Brands Pvt. Ltd. (PBPL). Ld. Counsels for accused persons failed to explain how many marks were awarded to M/s Compact Discs India Ltd. and on what basis and how M/s Premier Brands Pvt. Ltd. and M/s Compact Discs India Ltd. collectively got more than 500 marks.

121. The manner in which Evaluation Committee comprising of

accused no. 2 to 6 had held M/s Premier Brands Pvt. Ltd. to be qualified clearly indicate that accused no. 2 to 6 had granted undue favour to the accused no.8, M/s Premier Brands Pvt. Ltd. so that the said company qualify and participate in commercial bid.

122. Further it is noted that accused no.8, M/s Premier Brands Pvt. Ltd., was appointed Master Licencee. The EB vide Minutes of Meeting dated 06.05.2017 has dealt with the case of accused no.8, M/s Premier Brands Pvt. Ltd., separately and appointed accused no.8, M/s Premier Brands Pvt. Ltd., as Master Licensee after accepting its offer for all the products. No such opportunity was granted to other companies who qualified in technical evaluation and whose bids were considered for commercial evaluation. Further, it is not in dispute that RFP did not contain any scope for appointment of Master Licensee, despite that accused no. 2 to 6 during commercial evaluation had suggested for appointing accused no.8, M/s Premier Brands Pvt. Ltd. as Master Licensee. Therefore, appointing M/s Premier Brands Pvt. Ltd. as Master Licensee is another act of accused no.2 to 6 to favour accused no.8, M/s Premier Brands Pvt. Ltd..

123. Ld. Counsel for accused no.5 has contended that

accused no.5, K.U.K. Reddy, was not involved in the process of first RFP and has participated only in technical and commercial bid evaluation and cannot be said to have done any wrong. The role of the accused no.5, K.U.K. Reddy is clear as he being the member of the Evaluation Committee has granted favour to M/s Premier Brands Pvt. Ltd., by holding it to be qualified during technical evaluation and appointing it as Master Licensee.

124. Ld. Counsel for accused no.6, Sangeeta Welinkar, submitted that accused no.6, Sangeeta Welinkar, was not present in technical evaluation on 15.04.2010 as she was shown on leave by Sh. Sanjay Mohindroo. Here it is noted that accused no.6, Sangeeta Welinkar had signed on envelopes containing bids for Technical Evaluation at the time of opening the said envelopes, therefore, it is clear that she was atleast not on leave on 15.04.2010 for entire day. Further the Minutes of Meeting dated 15.04.2010 shows the name of Sangeeta Welinkar as Member present during said meeting. Accused had not raised any objection with regard to her presence shown in the Minutes of meeting. Further, Nidhi Sharma, PW-2, has stated that Sangeeta Welinkar was present on the day of technical evaluation. The attendance and leave record of

accused Sangeeta Welinkar shows that she was present on 15.04.2010 and Attendance Chart depicts "BP" against her name which means she was present throughout the day. It is clarified in the said Chart "BP" means present. "HD" means half day. The aforesaid documents and the statement of Ms. Nidhi Sharma shows that accused Sangeeta Welinkar was present and participated during the technical evaluation.

125. Further, Sangeeta Welinkar although stated that she has not signed the Report dated 27.04.2010 when commercial bids were opened and one Ms. Cheryl had signed the report. It is alleged that Ms. Cheryl was the Secretary of Ms. Sangeeta Welinkar. Further, there is no dispute on the fact that accused no.6, Ms. Sangeeta Welinkar, was present at the time of commercial evaluation of bid on 06.05.2010 and she was one of the member of OC, who recommended M/s Premier Brands Pvt. Ltd. as Master Licensee.

126. It has already been discussed that accused no.8 was appointed Master Licensee which was against the terms and conditions of the RFP and other bidders were not granted any

such opportunity and thus favour was granted to the accused no.8.

127. Now I turn to the contentions raised by Ld. Counsel for accused no. 7, 8 and 9 that there was no collusion between accused no. 7, 8 and 9 and 1 and the other accused persons. It is submitted that accused no. 7 to 9 had tried their best to fulfill the Contract and there was lapse on the part of the OC in fulfilling terms and conditions of the Contract and also the Delhi Police did not permit them to sell the items which made the aforesaid Contract unexecutable and accused no. 7, 8 and 9 suffered huge loss due to which it had to make stop payment of the cheques for a sum of Rs. 3.2 crore.

128. It has already been discussed that accused no. 8, M/s Premier Brands Pvt. Ltd., was not the participant in the first RFP and the manner in which first RFP was cancelled and the accused no.8, M/s Premier Brands Pvt. Ltd. was held qualified by Member of Technical Evaluation Committee clearly shows that there was conspiracy amongst the accused persons. This fact is further corroborated by the fact that during Commercial Evaluation, accused no.8, M/s Premier Brands Pvt. Ltd., was appointed Master Licensee for Merchandising and Licensing

against the terms and conditions of the second RFP. This fact also shows that accused no. 2 to 6 has granted undue favour to the accused no. 7 to 9.

129. Further, the contention of Ld,. Counsel for accused no. 7, 8 and 9 that accused no.8, M/s Premier Brands Pvt. Ltd., could not sell the articles is far from the material on record. As per the prosecution, the accused no.8, M/s Premier Brands Pvt. Ltd., had sold articles worth Rs. 58,757/- by online process during the period 25.09.2010 to 07.10.2010 and had also sold articles through different channels/sub-licensees from whom the accused no.8, M/s Premier Brands Pvt. Ltd., had taken huge money for grant of sub-license. It is also relevant to point out that accused no.8, M/s Premier Brands Pvt. Ltd., has handed over cheques for an amount of Rs. 3.2 crore to the OC, which got dishonoured and did not pay any amount although M/s Premier Brands Pvt. Ltd. was selling the merchandise. Needless to say that accused was having sub-licensees who were selling articles at different places, other than situated in Stadium. Therefore, to say that accused had got the cheque dishonoured because Delhi Police had stopped them selling the articles in shops inside the stadium, does not appear to be

correct. Further, it is also clear from material on record that accused no.8, M/s Premier Brands Pvt. Ltd., tried to put off/delay signing of long term agreement as signing of same would mean to deposit 1 crore amount. These facts show that the accused no.8, M/s Premier Brands Pvt. Ltd., has dishonest intention from beginning as apparent from his conduct.

130. Here it will not be out of context that M/s Premier Brands Pvt. Ltd. has written in its application (D-4/2 Pg. 377). "A subsidiary of CDIL" and has attached Certificate of Incorporation and Memorandum and Articles of Association of M/s Premier Brands Pvt. Ltd. and Annual Report of M/s Compact Discs India Ltd.. The accused no.8 has misrepresented it to be subsidiary of CDIL and gave false information in different columns of application as the details in some columns such as in financial information (column 8) were of M/s Compact Discs India Ltd. and not of M/s Premier Brands Pvt. Ltd.. The accused no.7, Director in M/s Premier Brands Pvt. Ltd. has signed the application giving wrong information. The details of M/s Compact Discs India Ltd. and its documents must have been provided by M/s Compact Discs India Ltd., to be used by M/s Premier Brands Pvt. Ltd.. The accused no. 2 to 6 have given false information in Minutes of Meeting that M/s Premier Brands Pvt. Ltd. was subsidiary of M/s Compact Discs

India Ltd. and that it had qualified in the technical evaluation and concealed the fact regarding ineligibility of M/s Premier Brands Pvt. Ltd.. The aforesaid facts clearly shows that the accused no. 7, 8 and 9 had put OC under deception and managed to get contract by giving false facts and concealing facts that accused no.8 was not qualified and accused no.1 to 6 conspired with accused no. 7 to 9.

131. The charge sheet shows that accused no.1, V.K. Verma, the then DG, OC, CWG, 2010, and other members of the Evaluation Committee for the second RFP entered into criminal conspiracy with accused no.7, Suresh Kumar @ Seengal, and got the first RFP annulled through OCFC on 24.02.2010 facilitating M/s Premier Brands Pvt. Ltd., accused no.8, to participate in the second RFP. Accused no.1 to 6, public servants abused their official position and granted undue favour to accused no. 7, Suresh Kumar @ Seengal and accused no.8, M/s Premier Brands Pvt. Ltd., holding accused no.8 to be technically qualified at the time of technical evaluation and further granted master license to M/s Premier Brands Pvt. Ltd., accused no.8, which was against the terms and conditions of the RFP.

132. Accused no.7, Suresh Kumar @ Seengal put OC under

deception, misrepresented facts before OC, dishonestly gave false information and succeeded in getting accused no.8 qualified in technical evaluation and further obtained Master License for all items/categories of items. Accused no.8 managed to get permission of OC to grant sub-license which was not permitted and had collected Rs. 50900909/- (Rupees Five Crore Nine Lac Nine Hundred and Nine Only) and did not pay money to the OC CWG. The accused no.8 issued cheque and persuaded the OCFC officials to delay the presentation of cheque and got the cheque dishonoured and the accused no. 7 and 8 further put off signing long term Agreement. The aforesaid facts clearly shows accused no. 7, 8 and 9 in collusion with accused no. 1 to 7 have committed cheating with the OC.

133. The judgments cited by accused does not help their case.

134. Accused no. 7, Suresh Kumar @ Seengal is also representing, accused no.8, M/s Premier Brands Pvt. Ltd. and accused no.9, M/s Compact Discs India Ltd..

135. The aforesaid facts and circumstances of the case thus gives rise to grave suspicion against accused persons warranting framing of charge for the offences as discussed

below:-

From the facts and circumstances, it is clear that accused no.1, V.K. Verma, accused no.2, M. Jeychandren, accused no.3, Ram Mohan, accused no.4, Surjit Lal, accused no.5, Gp. Captain K. Uday Kumar Reddy and accused no.6, Sangeeta Welinkar are prima facie guilty of offences under Section 13(1)(d), punishable under Section 13(2) of P.C. Act.

Accused no.1, V.K. Verma, accused no.2, M. Jeychandren, accused no.3, Ram Mohan, accused no.4, Surjit Lal, accused no.5, Gp. Captain K. Uday Kumar Reddy, accused no.6, Sangeeta Welinkar, accused no.7, Suresh Kumar @ Suresh Kumar Seengal, accused no.8, M/s Premier Brands Pvt. Ltd. and accused no.9, M/s Compact Discs India Ltd. are prima facie guilty of offences U/S 120B IPC read with Section 13(1)(d) read with Section 13(2) of P.C. Act and Section 420 IPC.

Further, accused no.7, Suresh Kumar @ Suresh Kumar Seengal, accused no.8, M/s Premier Brands Pvt. Ltd. and accused no.9, M/s Compact Discs India Ltd. are prima facie guilty of offence under Section 420 IPC.

**Announced in the open Court
on 24.07.2017**

**(Arvind Kumar)
Special Judge, CBI**