



COMPETITION COMMISSION OF INDIA

Case No. 16 of 2024

In Re:

Mr. Rajesh George

Informant

Marokey (H), Cherumukku Central Avenue,
Chembukavu, Thrissur City,
P.O., Kerala

And

Honda Motorcycle & Scooter India Pvt. Ltd.

Opposite Party

Plot No.1, Sector-03,
IMT Manesar, Distt. Gurugram,
Haryana - 122050

CORAM

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

Mr. Deepak Anurag
Member

Order under Section 26(2) of the Competition Act, 2002

1. The present Information has been filed under Section 19(1)(a) of the Competition Act, 2002 (“Act”) by Mr. Rajesh George (“**Informant**”) against Honda Motorcycle & Scooter India Private Limited (“**Opposite Party**”/ “OP”/ “HMSI”) alleging contravention of the provisions of Section 4 of the Act.



2. The Informant is the Managing Director of Classic Omega Auto Private Limited having its registered office at Thrissur, Kerala. OP is the manufacturer and distributor of two wheelers and is a wholly-owned subsidiary of Honda Motor Company, Japan.
3. The Informant was a dealer of Suzuki Motorcycle India Private Limited (“Suzuki”) since 30.03.2007 with a showroom at Puzhakkal, Thrissur, Kerala. Around the year 2016, the Informant considered expanding his business by obtaining the dealership of one more reputed two-wheeler manufacturer. In pursuance of the same, in the month of February 2016, he responded to an advertisement published by HMSI in Malayalam Daily, inviting applications for dealership of Honda two-wheeler automobiles.
4. As per the Information, at the very outset of discussions, the OP stated that it will not appoint the Informant as their dealer until the Informant terminates his existing dealership with Suzuki. The Informant requested the OP to allow him to continue with the dealership of Suzuki, however, the OP categorically refused to do so. Pursuant to the discussions, Mr. Shivendra N., an officer of the OP, directed the Informant *vide* an email dated 03.04.2017, to send documents and photographs to prove that he has abandoned the dealership of Suzuki.
5. The Informant has stated that so as not to miss the opportunity to be appointed as the dealer of two-wheeler automobiles of the OP, he reluctantly terminated his dealership of Suzuki. It has been stated that the act of OP pressurizing the Informant to give up the dealership of their competitor *i.e.*, Suzuki amounts to abuse of its dominant position in the market, which is prohibited under the Act.
6. The Informant sent the termination details regarding dealership of Suzuki as requested by the OP, through an email dated 03.04.2017. Pursuant thereto, the Informant and the OP signed the dealership agreement on 19.08.2017 and the Informant was appointed as the OP’s authorised dealer at Koorkenchery, Thrissur, Kerala. The Informant accordingly relocated his showroom to Koorkenchery.



7. The Informant alleged that there were several instances of the OP abusing its dominant position in the market. One of such instance is the dumping of offbeat and unpopular models of two-wheelers to the showroom of Informant without the Informant placing an order for them. In spite of the Informant's complaint to the OP about the aforesaid conduct, the OP continued this coercive practice. It has been alleged that to prevent piling of dead stock of such vehicles in the yard, the Informant was compelled by the OP to sell products to the customers.
8. As per the Information, the pressure tactics employed by the OP affected the business of the Informant and the adverse effect brought in by Covid-19 further resulted into serious losses. The Informant's *bona fide* attempt to salvage the business by induction of a new Director who infused Rs. 2 crores into the business, failed because the OP unilaterally declined to permit the move.
9. The Informant alleged that the OP unilaterally terminated the dealership agreement *vide* email dated 22.01.2024, citing untrue allegations. It has been further stated that the Informant could not inform the Commission of the aforesaid illegal practices perpetuated by the OP until this point of time (time of filing of Information), because the Informant continued to be a dealer of the OP until 22.01.2024.
10. The Informant has prayed to initiate an investigation into the abovementioned facts in particular and similar practices being adopted by the OP in general and impose remedial and punitive measures as prescribed under the Act. The Informant has also prayed for a direction against the OP to restore its dealership.
11. The Informant has stated that substantial funds have been invested by him to run the business and the abrupt, unilateral and arbitrary termination of dealership agreement has caused substantial business losses, prejudice and hardships. Based on the above, the Informant has sought interim relief under Section 33 of the Act by way of a direction against the OP to restore the dealership of the Informant with immediate effect.



12. The Commission considered the Information in the ordinary meeting held on 20.11.2024 and decided to pass an appropriate order.
13. The Commission has perused the Information filed by the Informant and notes that the Informant has raised allegations against the OP, which are: (i) coercing the Informant to abandon dealership of Suzuki with an intention to drive out competitors and foreclose competition, (ii) dumping of offbeat and unpopular models of two-wheelers by the OP without any order placed by the Informant, and (iii) unilateral and arbitrary termination of dealership by the OP. These conducts have been alleged to be in the nature of abuse of dominant position as provided under Section 4 of the Act.
14. At the outset, the Commission would examine the maintainability of filing of Information under Section 19 of the Act from the view point of limitation period. The Commission notes that the Act was amended in 2023, wherein limitation period of 3 years has been introduced for entertaining an Information under Section 19 of the Act. Two provisos have been added in Section 19, which are as under:

“Section 19 (1).....

.....

*Provided that the Commission **shall not** entertain an information or a reference unless it is filed within three years from the date on which the cause of action has arisen:*

Provided further that an information or a reference may be entertained after the period specified in the first proviso if the Commission is satisfied that there had been sufficient cause for not filing the information or the reference within such period after recording its reasons for condoning such delay. ”

15. The Commission has perused the reasons provided by the Informant that he did not approach the Commission earlier because as per his existing agreement he was continuing as a dealer of the OP till 22.01.2024. The other reason provided by the Informant was that he did not want to miss the opportunity to be appointed as the dealer of the OP as its products enjoyed greater market dominance than that of two wheelers manufactured by Suzuki. The Commission notes that the dealership agreement between the Informant and the OP was entered into the year 2017 after termination of his



dealership agreement with Suzuki. The Informant started encountering problems with the OP from the year 2018 itself as evidenced through letter dated 14.04.2018 addressed to the OP by the Informant. The Commission also notes that the dealership agreement between the parties was revised in the year 2021.

16. Considering the averment of the Informant that he was coerced to abandon the dealership of Suzuki in the year 2018 and resultantly he chose to enter into dealership agreement with the OP, the cause of action accordingly, appears to have arisen in the year 2018 itself. In view of the same, the Commission observes that the reasons offered by the Informant *prima-facie* do not seem to be plausible for condonation of delay in filing of the Information. Notwithstanding the same, the Commission has analyzed the allegations levelled by the Informant within the framework of the Act to assess if there was any contravention or not.
17. With regard to the Informant's allegations of dumping of unpopular/offbeat models and unilateral termination of the agreement with the Informant, the Commission observes that these kinds of allegations seem to be related to transactions which are commercial in nature, which ordinarily do not invite attention under the provisions of the Act. Purchase and sale of a particular model or a particular make by any authorized agency of a vehicle manufacturer relate to the business-related aspects of the agreement and they themselves do not give rise to any anti-competitive conduct. Further, clause 2.2 of the dealership agreement dated 11.11.2021 states that the authorized main dealer shall sell the products as permitted by the company from time to time.
18. As far as the Informant's allegation of unilateral and arbitrary termination of dealership by the OP is concerned, the Commission observes that clause 27 of the Dealership Agreement dated 11.11.2021 provides terms and conditions for termination of dealership including termination of the agreement forthwith by written notice to the authorized main dealer upon breach of any of the conditions of the agreement. The termination email refers to the evaluation with respect to the improvement in overall sales/services of the OP's products and cites lack of improvement in the quality parameters. It has been stated in the OP's email that requisite standard of requirement



has not been met by the Informant. It also appears that several warning letters, improvement letters, letter of caution, *etc.* (letters dated 12.10.2021, 15.03.2022, 14.07.2022, 07.03.2023 and 11.09.2023) were sent to the Informant in this regard. All these *inter se* correspondences between the parties reflect the commercial disputes arising out of the agreement and such transactional issues do not fall within the purview of the Act. At this juncture, the Commission notes that the Informant exercised his choice in becoming a dealer of Suzuki earlier and of the OP later and choosing dealership of any company is a matter of choice for any dealer who enters into a contractual relationship with a manufacturer on acceptable terms and conditions. Such contractual relationship is usually entered into with the consent of both the parties and are guided by the terms and conditions contained in the contract.

19. In light of the above, the Commission directs that the matter be closed forthwith under Section 26(2) of the Act. Consequently, no case for grant for relief(s) as sought under Section 33 of the Act arises and the same is also rejected.
20. The Secretary is directed to communicate the decision of the Commission to the Informant, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi

Date: 14/01/2025