



COMPETITION COMMISSION OF INDIA

Case No. 15 of 2015

In Re:

M/s Mahadev Buildtech Pvt. Ltd.

A-8/77, Kalkaji Extension, New Delhi

Informant

And

1. M/s Hema Surgicals Pvt. Ltd.

Shop No. 1-2, GF, W-Mall, Plot No. 9,

Magnum Place, Sector-3, Rohini, Delhi

Opposite Party No. 1

2. Shri Giriraj Sevak Mandal

Plot No. 7, Block-G, First Floor,

Local Shopping Centre,

Kondli, Gharoli, Delhi

Opposite Party No. 2

3. Mr. Rakesh Chauhan

House No. E-21/196,

Sector - 3, Rohini, Delhi

Opposite Party No. 3

4. M/s Sansum Computech Pvt. Ltd.

Shop No. G-40,

Vikas Cine Mall, Plot No. 813/1,

G. T. Road, Shahdara, Delhi

Opposite Party No. 4



CORAM

Mr. Ashok Chawla
Chairperson

Mr. S. L. Bunker
Member

Mr. Augustine Peter
Member

Mr. Sudhir Mital
Member

Mr. U. C. Nahta
Member

Mr. M. S. Sahoo
Member

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

1. The information in the present case has been filed by M/s. Mahadev Buildtech Pvt. Ltd. through its authorized representative Mr. Sunny Marwah (hereinafter, the '**Informant**') under section 19(1)(a) of the Competition Act, 2002 (hereinafter, the '**Act**') against M/s Hema Surgicals Pvt. Ltd. (hereinafter, the '**Opposite Party No. 1**'), Shri Giriraj Sevak Mandal (hereinafter, the '**Opposite Party No. 2**'), Rakesh Chauhan (hereinafter, the '**Opposite Party No. 3**') and M/s. Sansum Computech Pvt. Ltd. (hereinafter, the '**Opposite Party No. 4**') [collectively hereinafter, the '**Opposite Parties**'] alleging, *inter alia*, contravention of the provisions of sections 3 and 4 of the Act in the matter.
2. As per the information, the Informant is a private limited company registered under the Companies Act, 1956 and is engaged in the business of liquor retailing. The Opposite Party No. 1 is a private limited company, engaged in the business of



retailing and wholesaling of liquor. The Opposite Party No. 2 is a registered society aiming to create a sense of brotherhood, mutual harmony, love and affection in the society. The Opposite Party No. 3 is the Director of Opposite Party No. 1 and the General Secretary of Opposite Party No. 2. The Opposite Party No. 4 is a company registered under the Companies Act, 1956 and is engaged in the business of wine.

3. It is submitted that the Informant has taken Shop no. G-39 on lease in Vikas Cine Mall, Plot No. 813/1, G. T. Road, Shahdara, Delhi for wine and liquor business. That in the said mall the Opposite Party No. 4 is already running a wine shop in shop no. G-40. It is averred that when the Informant submitted the application to the Excise Authorities for grant of the liquor license and started renovation of the shop for starting the business, the Opposite Party No. 1 and the Opposite Party Nos. 3 & 4 came to know about the same and were agitated at the prospect of a new wine shop in the same mall, as it would lead to an end to their monopoly of selling liquor in the said mall. The Opposite Parties have also verbally threatened the Informant stating that 'we are settled in the market, we won't let you settle' and 'we would make sure that your licence gets cancelled'.
4. It is alleged that the Opposite Parties have planned to stop the Informant from opening the wine shop to cause an adverse effect on healthy competition in the mall. As per the Informant, the Opposite Parties have arrived at an agreement to prevent the Informant from getting the license for opening up of the liquor shop in the said mall which is in violation of the provisions of the Act.
5. It is submitted that the Opposite Party No. 3 purposely leased out a shop on the other side of the side lane of the mall for a makeshift temple. It is alleged that the said shop was overnight converted into a makeshift temple with a view to stop the business of the Informant since as per the rules of the Excise department if there is a place of worship within 100 meters of the establishment seeking license for



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opening a wine shop, then license cannot be given for the said establishment. It is alleged that, by opening the makeshift temple, the Opposite Party No. 2 in collusion with the Opposite Party No. 1 is imposing conditions which have the effect of creating barriers to new entrants and also foreclosing competition by hindering entry into the market.

6. Realising that opening of a new wine/ liquor vending shop in the mall would increase footfall in the mall and other shops, the mall authorities decided to permanently close the side gate and constructed a brick wall. Though the Informant was issued license pursuant to the closure of the side gate of the mall thereby making his shop compliant with the rules of the Excise Department, the Informant has alleged that the conduct of the Opposite Parties has the effect of creating barriers to new entrants and also foreclosing competition. The grievance of the Informant is also that by construction of side wall to a gate approaching mall has destroyed the USP of his shop as it has reduced the visibility of the shop from the public.
7. It is submitted that the Opposite Party No. 1 is the biggest player in the market and has several shops and establishment through which it is selling liquor. The Opposite Party No. 4, who is also operating a liquor vending shop in the same mall, has joined hands with the Opposite Party Nos. 1 to 3 to stop the Informant from doing the business thus discouraging healthy competition.
8. It is alleged that the Opposite Party No. 4 is abusing its dominant position by aligning with the Opposite Party Nos. 1 to 3 and adopting unfair, discriminatory and illegal means which has the effect of limiting/ denying market access to genuine retailers like the Informant.
9. It is further alleged that the restrictions imposed by the Opposite Parties by way of leasing of an unauthorized shop for the purpose of a makeshift temple so that the



same would come within the 100 metres distance from the shop of the Informant leading to a denial/ cancellation of its licence, limits and controls the supply and marketing of the products which presumed to have an appreciable adverse affect on competition.

10. Aggrieved by the alleged abusive conduct of the Opposite Parties, the Informant has prayed the Commission to inquire into the activities of the Opposite Parties which are in contravention of the provisions of the Act, direct the Opposite Parties not to abuse their dominant position, direct the Opposite Parties not to threaten and coerce the Informant in any manner whereby the business of the Informant may get affected, and pass any other order or orders as the Commission may deem fit and proper.

11. The Commission has considered the materials submitted by the Informant. From the information it appears that the Informant is primarily aggrieved by the fact that the Opposite Parties have allegedly colluded with each other to cancel the licence of the Informant and to restrict it from doing liquor business in the Vikas Cine Mall at Plot No. 813/1, G. T. Road, Shahdara, Delhi by converting a shop in a nearby unauthorised market into a makeshift temple within 100 metres distance from the shop of the Informant in the said mall. The Informant is also aggrieved that a side wall was constructed by the mall authorities in the busy side lane of the mall leading to lower visibility of its shop to a larger public and decrease in its liquor sale thus, its business is adversely affected.

12. Having perused the facts and circumstances of the matter, the Commission observed that the allegations of the Informant appear to be a business dispute and trade rivalry between the Informant and Opposite Parties and there is no competition issue involved in the matter. Nothing is stated in the information or submitted by the Informant which can disclose that there exists an agreement amongst the Opposite Parties which can be considered as anti-competitive as per



the provisions of section 3 of the Act. The information also does not disclose any case of abuse dominant position by any of the Opposite Parties in terms of section 4 of the Act.

13. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of either section 3 or section 4 of the Act is made out against the Opposite Parties in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.

14. The Secretary is directed to inform all concerned accordingly.

Sd/-

**(Ashok Chawla)
Chairperson**

Sd/-

**(S. L. Bunker)
Member**

Sd/-

**(Augustine Peter)
Member**

Sd/-

**(Sudhir Mital)
Member**

Sd/-

**(U. C. Nahta)
Member**

Sd/-

**(M. S. Sahoo)
Member**

New Delhi

Date: 23.04.2015

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