



Competition Commission of India



Case No. 22/2013

Dated 01.07.2013

**Kanwal Jit Singh
(Proprietor, M/s Kanwal Automobiles)
116-B, Alexandra Road,
Ambala Cantt -1330001,
Haryana**

Informant

**India Yamaha Motors Pvt. Limited
(Through its Managing Director)
A-3, Industrial Estate,
Noida Dadri Road,
Surajpur – 201306,
Gautam Budh Nagar, UP**

Opposite Party

CORAM:

Mr. Ashok Chawla
Chairperson

Dr. Geeta Gouri
Member

Mr. Anurag Goel
Member

Mr. M. L. Tayal
Member

Mr. Justice S. N. Dhingra (Retd.)
Member

Mr. S. L. Bunker
Member

Present: Mr. Tejinder Pal Singh, Advocate for the Informant.



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

The information was filed under section 19(1) (a) of the Competition Act, 2002 (the ‘Act’) by Kanwal Jit Singh (the ‘Informant’) against India Yamaha Motors Pvt. Limited (the “Opposite Party”) alleging abuse of dominance for contravention of the provisions of Section 4 of the Act.

2. The Informant contended that he was appointed authorized dealer by the Opposite Party, in 2007, for sale of its motorcycles, spare parts and accessories in Ambala Cantonment area because he was already an established name and had a showroom at a strategic location in Ambala. The Informant was given exclusive dealership and was authorized by the Opposite Party to appoint sub-dealers in other areas in Ambala Cantonment. The exclusive dealership of the Informant was for economy (100cc), deluxe (150cc) and premium (150cc) segments of motorcycles in different price ranges. The economy segment of motorcycles was between Rs. 35,000 – Rs. 45,000 and the deluxe and premium segment motorcycles started from Rs. 55,000 and Rs. 1, 00,000 respectively. The Informant alleged that he incurred huge expenditure in renovation and equipping his show room to display/show case the motorcycles of the Opposite Party. As a result of efforts of the Informant over a period of about 5 years, i.e. from 2007 to 2012, the market share of the Opposite Party increased from 0.50% to 12%. The Informant has also highlighted the sales figures of motorcycles of the Opposite Party in Ambala, for 5 years, as under:-

Year	No. of Motorcycles Sold
2008	78
2009	260
2010	353
2011	402
2012	388



3. The Informant contended that initially there was no market for the economy segment motorcycles of the Opposite Party and only deluxe and premium segment motorcycles were in demand in Ambala and as such stocks were maintained by the Informant at minimum levels. The Informant has also opened outlets at Dosarka and Kharga Shopping Complexes. He was constantly being pressurized by the Opposite Party to appoint more sub-dealers, although it was not commercially viable for the Informant to open more outlets. The Informant explained to the Opposite Party about the market conditions and about demand of only deluxe and premium segment motorcycles. Despite this, the Informant, learned about another dealer being appointed in that area. The Informant also sent an email to the top management of the Opposite Party about rumours of appointment of other dealer(s) in Ambala and he was assured that no other dealer would be appointed in that area and the Informant would continue to exclusively cater to the area.
4. However, without regard to the terms and conditions of appointment of the Informant as authorized dealer and the assurances given by the Opposite Party to the Informant, the Opposite Party was keen to open another showroom and appoint other dealers in Ambala. The Informant gave additional information that during the pendency of the application/information, the Opposite Party appointed another dealer, who also started his operations.
5. Based upon above averments, the Informant sought an inquiry into malpractices and pressure tactics adopted by the Opposite Party and about abuse of its dominance.
6. The Commission considered the information and heard the oral arguments put forward by the Advocate for the Informant.



7. For establishing the abuse of dominance of the Opposite Party in the relevant market, first, it is required to determine the relevant product and geographic markets. The relevant product market in this case is the market of motorcycles of different price ranges. Section 2(s) defines relevant geographic market as 'a market comprising the area in which the conditions of competition for supply of goods or provision of services or demand of goods or services are distinctly homogenous and can be distinguished from the conditions prevailing in the neighboring areas'. The Informant in the present case was an authorized dealer of Yamaha motorcycles in Ambala Cantonment, but it is not necessary that a motorcycle buyer in Ambala will purchase motorcycle from Ambala area only. Buyers in Ambala are free to purchase motorcycles from any place within or outside Ambala. As discussed in the following paragraph, a number of other motorcycle brands had also established their presence in Ambala and its surrounding areas in the State of Haryana. Thus, the relevant market can be delineated as the market of motorcycles in Ambala and its surrounding areas of Haryana.
8. As per the Informant, the market share of the Opposite party in sale of motorcycles in Ambala was around 12% in 2012 which indicated that the Opposite Party was also not in a dominant position in the areas surrounding Ambala. As per the Economic Times report dated Oct, 16, 2012, Hero Motor Corporation had the highest market share of 42.7% in India during April-September 2012, Honda Motorcycles has nearly about 20% of market share and Bajaj had approximately 18%, TVS Motors had around 12% of market share during the said period. Compared to the above companies, the market share of the Opposite Party in India was very less. Further, as per information available in public domain, apart from the Opposite Party, there were several other motorcycle manufacturers like



Royal Enfield, Hero Honda, Bajaj, TVS, etc. in Ambala Cantonment, with each of the above said brands marketing and selling motorcycles in different segments and price ranges. On the basis of above analysis, *prima facie*, the Opposite Party was not in a dominant position in the relevant market.

9. The Opposite Party also does not appear to be a dominant procurer of dealership services for retailing its motorcycles in Ambala, considering its market share. If a company is a dominant seller in particular geographic area and the market demand for its products was comparatively more, it was likely to appoint more dealers and *vice versa*. Since the Opposite Party, *prima facie*, did not appear to be in a dominant position in the relevant market of motorcycles in Ambala and its surrounding areas, it could not be a dominant procure of the service of dealers in Ambala and its surrounding areas of Haryana, where many motorcycle companies have their dealers. As such, the question of abuse of dominant position by the Opposite Party does not arise. The Opposite Party has not restricted the market for the Informant. The Informant was free to provide its services to the Opposite party and its customers even if Opposite Party appointed more dealers. It was also free to provide its services to any other motorcycle manufacturing company as per its choice and preferences. Moreover, the Opposite Party had a right to appoint any number of dealers in the relevant geographic market to expand its sales. Such conduct cannot be stated to be anti-competitive rather it promotes intra brand competition between the dealers of the same brand resulting into consumer good.
10. In view of the above discussion, there does not exist a *prima facie* case for causing an investigation to be made by the Director General. It is a fit case for closure under section 26(2) of the Act and the same is hereby closed.



11. The Secretary is directed to inform the parties accordingly.

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(Dr. Geeta Gouri)
Member

Sd/-
(Anurag Goel)
Member

Sd/-
(M. L. Tayal)
Member

Sd/-
(S. N. Dhingra)
Member

Sd/-
(S. L. Bunker)
Member

New Delhi
Date: 01.07.2013