



COMPETITION COMMISSION OF INDIA

Case No. 37 of 2021

In Re:

Anupam Gupta

A-8, Behind Archana Cinema
Greater Kailash, Part-1
New Delhi
110048

Informant

And

Overseas Courier Service India Pvt. Ltd

The One, Khasra No.30/14/1
Revenue Estate of Kapashera
South West Delhi, Delhi
110037

Opposite Party

CORAM

Mr. Ashok Kumar Gupta
Chairperson

Ms. Sangeeta Verma
Member

Mr. Bhagwant Singh Bishnoi
Member

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

1. This order shall dispose of an information filed by Anupam Gupta (**'Informant'**) on 12.11.2021. The Informant has alleged contravention of various provisions of Companies Act, 2013 by Overseas Courier Service India Pvt. Limited (**"OCS India"**).



2. As per the information filed, OCS India was incorporated under the Companies Act, 1956. OCS India was originally formed in the year 1994, by the Informant's father, Mr. M.L. Gupta along with his brother, Mr. Manish Gupta and his sister, Ms. Vandana Batra. It has been stated that main object of the company is to engage in courier services, domestic and international.
3. The share holding pattern of the company at the time of incorporation was as under:

S. No.	Name of the registered owners of the shares	Number of shares	Shareholding Percentage
1.	Mr. Manohar Lal Gupta	7,600	76%
2.	Mr. Anupam Gupta (Informant)	400	4%
3.	Mr. Manish Gupta	400	4%
4.	Ms. Vandana Gupta	1,600	16%
Total		10,000	100%

4. The Informant has stated that OCS India was a profitable company and was having a turnover of around INR 50 million as on 30.03.2006. On 08.08.2006, Mr. M.L.Gupta and other shareholders namely, Mr. Anupam Gupta (Informant), Mr. Manish Gupta and Ms. Vandana Gupta transferred 76% shareholding of the company to Overseas Courier Service Company Ltd., Japan ("OCS Japan"), pursuant to a share purchase agreement executed with OCS India.
5. Consequent upon the entering of the Share Purchase Agreement dated 08.08.2006, the share holding pattern of company stood as under: -

S. No.	Name of the registered owners of the shares	Number of shares	Shareholding Percentage
1.	OCS Japan	7,600	76%
2.	Mr. Anupam Gupta (Informant)	1,200	12%
3.	Mr. Manish Gupta	1,200	12%
Total		10,000	100%

6. It has been stated that no agreement for transfer of shares was entered into between Mr. M.L. Gupta, Mr. Anupam Gupta, Mr. Manish Gupta and Ms. Vandana Gupta with



Overseas Courier Service Co. (Hong Kong) Ltd. (“**OCS Hong Kong**”). It has been stated that later on the Informant came to know that 72.2% shareholding of the company has been transferred to OCS Hong Kong.

7. It has been stated that post the transfer of controlling interest of company to OCS Japan instead of seeing substantial increment and rise as originally projected, the company witnessed a continuous downward trend due to fraud committed by the majority shareholders and its nominee directors along with other persons in charge of the company.
8. It has been stated that OCS Japan, being the holding company of OCS Hong Kong is fully responsible and accountable for the affairs and management of company. The affairs and management of company have been conducted by majority shareholders and its nominee directors fraudulently and dishonestly and to cause financial losses to OCS India and its shareholders, namely, the Informant and Manish Gupta. For the various services related to courier business provided by OCS India to OCS Japan, OCS India is not being compensated truly and/or fairly and the money belonging to OCS India is being withheld abroad under false and fictitious headings/invoices.
9. It has also been stated that there has been fraudulent, dishonest, systematic and deliberate drain of revenues of OCS India by the majority shareholders and its nominee directors who are also guilty of several malpractices, illegal practices and unfair trade practices whereby siphoning off funds of company has resulted in to gross erosion of financial health and strength of OCS India to unjustly benefit of OCS Japan and OCS Hong Kong.
10. In view of the foregoing, the Informant (along with the other shareholder Manish Gupta) were constrained to file a petition before the NCLT, New Delhi under various provisions of the Companies Act, 2013 for oppression and mismanagement as the affairs and management of company were being run with irregularities which caused financial loss to company of more than 150 crores from the years 2007 to 2018. The said matter is pending before the NCLT, New Delhi.



11. Based on the above averments and allegations, the Informant has *inter-alia*, prayed to the Commission for an investigation into the affairs of OCS India specially the fraudulent act and conduct of the Japanese shareholders and their nominee directors who have been working for their principals and take appropriate action against the majority shareholders and their nominee directors under the relevant provisions of the law for offences like, fraud, cheating, breach of trust, misappropriation of valuable property, fraudulent fund transfer without approval and authority, forgery and manipulation of documents and books of accounts and violation of other laws like FEMA, money laundering through their Chinese entity namely OCS Hong Kong.
12. The Commission in its ordinary meeting held on 15.12.2021, considered the information and other material available on record and decided to pass an appropriate order in due course.
13. The Commission, at the outset, observes that the allegations in the instant matter appears to relate to oppression and mismanagement by the majority shareholders of OCS India. According to the Informant, the affairs of OCS India have been run with irregularities and in an unprofessional manner which has caused financial loss to the company to the tune of more than Rs. 150 crores over the years 2007 to 2019. As per the Informant, the matter is pending before the NCLT, New Delhi alleging contravention of provisions of the Companies Act, 2013.
14. The Commission notes that a bare perusal of the allegations raised in the Information pertain to the provisions of the Companies Act, 2013. Neither any violation of the provisions of the Competition Act, 2002 has been alleged nor can be deciphered from the information.
15. In view of the foregoing, the Commission is of the opinion that there exists no *prima facie* case, and the information filed is directed to be closed forthwith under Section 26(2) of the Act.



16. The Secretary is directed to communicate to the Informant accordingly.

Sd/-
(Ashok Kumar Gupta)
Chairperson

Sd/-
(Sangeeta Verma)
Member

Sd/-
(Bhagwant Singh Bishnoi)
Member

New Delhi

Date:21/12/2021