



COMPETITION COMMISSION OF INDIA

Case No. 41 of 2017

In re:

Shri Rishi Keshwani

23/34 A, Lukerganj, Allahabad, Uttar Pradesh

Informant

And

M/s Kanti Traders

Behind Bharat Petrol Pump, Near Kolia,

Sahjanwa, Gorakhpur, Uttar Pradesh

Opposite Party

CORAM

Mr. Devender Kumar Sikri

Chairperson

Mr. Sudhir Mital

Member

Mr. Augustine Peter

Member

Mr. U. C. Nahta

Member

Justice G. P. Mittal

Member

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

1. The information in the present matter has been filed by Shri Rishi Keshwani, the proprietor of M/s Rishi Enterprises (the '**Informant**') under Section 19(1)(a) of the



Competition Act, 2002 (the 'Act') against M/s Kanti Traders (the 'OP') alleging contravention of the provisions of Section 4 of the Act.

2. The Informant is stated to be in the business of marketing of 'Shudh Plus' pan masala in the area of Allahabad, Uttar Pradesh and the OP is the manufacturer of 'Shudh Plus' pan masala.
3. As per the information, for marketing of the aforesaid product in the area of Allahabad, Uttar Pradesh, the OP had entered into a dealership agreement with the Informant in March, 2013 and appointed the Informant as the super stockiest of its product 'Shudh Plus' pan masala in the area of Allahabad. It is averred that despite several requests, the OP failed to provide a copy of the said agreement to the Informant.
4. The Informant has submitted that he has developed infrastructure facilities such as godown/ warehouse admeasuring 4000 sq. ft. in the heart of the city of Allahabad, vehicles, staffs, office accommodation *etc.* as per the norms prescribed by the OP for the said business and achieved sales of Rs. 5,00,46,605/-, Rs. 5,76,39,007/, Rs. 5,90,32,556/- and Rs. 4,92,21,174/- in the years 2013-14, 2014-15, 2015-16 and 2016-17 respectively. It is also submitted that when the dealership agreement was entered into between the Informant and the OP in March, 2013, 'Shudh Plus' pan masala was unknown in the market and because of the hard labour of the Informant, the sales of said product were increased ten times in the area of Allahabad as compared to the neighbouring districts.
5. It is stated that, after demonetisation of Rs. 500 and Rs. 1000 banknotes on 08.11.2016, the OP requested the Informant to deposit some demonitised banknotes in his bank account. However, the Informant refused to indulge into such illegal activity, which resulted in hostile reactions from the OP. Thereafter, on 18.11.2016, the OP terminated the dealership agreement and ended its business relationship with the Informant. Moreover, on the same date, the OP appointed a new super stockiest *i.e.* M/s Vimal Agencies for marketing of 'Shudh Plus' pan masala in the aforesaid



area. No reasons for such actions were given to the Informant. The Informant has alleged that once the said product of the OP became famous in the market because of his hard labour, the OP has terminated the dealership agreement and appointed M/s Vimal Agencies as its super stockiest who is now enjoying the fruits of the hard labour of the Informant. It is also alleged that M/s Anil Agencies, an associate of the OP to whom the Informant was supplying 'Shudh Plus' pan masala, has not paid Rs. 32,06,563/- to the Informant.

6. Based on the above, the Informant alleged that the aforesaid conduct of the OP amounts to abuse of its dominant position in violation of provisions of the Section 4 of the Act. Accordingly, the Informant has *inter alia* prayed the Commission to restrain the OP from changing its super stockiest to other agency.
7. From the facts and circumstances of the present case, the Commission observes that the Informant is primarily aggrieved by the conduct of the OP in arbitrarily terminating the dealership agreement of the Informant and appointing M/s Vimal Agencies as its super stockiest for its product 'Shudh Plus' pan masala in the area of Allahabad.
8. The Commission observes that the allegations of the Informant in the present case emanate from a dealership agreement entered into between the OP and the Informant for marketing of 'Shudh Plus' pan masala in the area of Allahabad, Uttar Pradesh. It is noted that a stockiest is a distributor, who deals with a particular type of goods in the form of stocks and then acts as a channel for distribution of the goods from the manufacturer to the retailers and to the end consumers. Further, a stockiest needs to have certain level of infrastructure in terms of warehouse, manpower and vehicles to service the area assigned to it. A super stockiest buys the product from the manufacturer and transfers/ distributes the same to sub-stockiests or retailers under it. Thus, a super stockiest acts as an intermediary between a manufacturer and the sub-stockiests or retailers. It is noted that pan masala is a balanced mixture of areca nuts (also known as supari), catechu, cardamom, lime,



flavoring agents and some natural perfuming materials. Mint leaves, powdered lime, pure menthol and other flavourings are also added to the mixture of pan masala and it is used to aid digestion or as a breath freshener. Pan masala is consumed by an estimated 200 to 400 million people in the world, mainly Indo-Asians and Chinese and India is the one of the largest consumer of pan masala in the world. It may be noted that pan masala is a distinct product and it cannot be considered to be substituted with any other related products. Thus, '*market for pan masala*' may be considered as the relevant product market in the instant case. With regard to the relevant geographic market, the Commission observes that pan masala is a fast moving consumer good and competition in this segment is not restricted to any specific geographical area of India. Also, the conditions of competition for manufacturing/ distribution of pan masala throughout India are homogenous in nature. Hence, the relevant geographical market in this case may be taken as '*India*'. Accordingly, the Commission delineates the relevant market in the instant case as the "*market for pan masala in India*".

9. It is noted that the Informant has not provided any information regarding dominance of the OP in the relevant market as delineated above. However, from the latest study of IMARC - a leading market research company that offers management strategy and market research worldwide - on '*Pan Masala Market: Industry Trends, Share, Size, Growth, Opportunity and Forecast 2017-2022*', the Commission observes that the pan masala market in India in 2016 was around Rs. 35,459 crores and its compound annual growth rate during 2009-2016 was 16.5%. It is also observed that in the said market, Rajnigandha (DS Group), RMD (Manikchand), Pan Vilas (Godfrey Phillips) and Pan Parag (Kothari Products) were the top players in 2016. Thus, it is evidently clear that the OP was not present in the top four brands of pan masala in India in 2016. Further, as per the the '*Market Survey cum Detailed Techno Economic Feasibility Report on Pan Masala Sada, Meetha and Zarda*' conducted by Niir Project Consultancy Services (NPCS), in 2016, DS group had a market share of 65%, Pan Parag of Kothari group had a market share 11 % and Pan Vilas of Godfrey Phillips had a market share 10% in the said market. Looking into the



market shares of the aforesaid companies in 2016, it can be safely concluded that the market share of the OP in the said year must be in a negligible proportion. Further, in terms of dealership network also, the OP would not have a wide network similar to that of the competitors of the OP such as Rajnigandha, RMD, Pan Vilas, Pan Parag, *etc* who are the top brands of pan masala. Based on the above information, the Commission is of the view that the OP cannot said to be in a dominant position in the relevant market as defined *supra*. Since the OP is not a dominant player in the relevant market, the question of abuse of dominance by it under Section 4 of the Act does not arise.

10. In the light of the above analysis, the Commission finds that no *prima facie* case of contravention of the provisions of Section 4 of the Act is made out against the OP in the instant matter. Accordingly, the matter is closed under the provisions contained in Section 26(2) of the Act.

Sd/-
(Devender Kumar Sikri)
Chairperson

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

Sd/-
(Justice G. P. Mittal)
Member

New Delhi
Date: 28.09.2017