



Case No. 72 of 2013

**In re:**

Mr. Shyam Lal Gupta ..Informant  
C-11, Acharaya Kirplani, Adrash Nagar, Delhi-110033

And

Cravatex Ltd. ..Opposite Party  
Delhi Sales Offices : 367, Kohat Enclave, Pitampura, New Delhi - 110034  
Regd. Office: Sahas, 4th Floor, 414/2, Veer Savarkar Marg, Prabhadevi,  
Mumbai-400025, Maharashtra.

**CORAM:**

Mr. Ashok Chawla  
Chairperson

Dr. Geeta Gouri  
Member

Mr. S. N. Dhingra  
Member

Mr. M. L. Tayal  
Member

Mr. S. L. Bunker  
Member

Present: Mr. Shyam Lal Gupta (Informant in person)

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

As per the information, the informant purchased a Treadmill from Opposite Party (OP) which he stated to be a dominant player in the market of 'sale of Treadmills'. The Treadmill went out of order in September 2012. The



service engineer found that the Electric Motor and MCB Board (two major components) of the Tread Mill and one more spare part were damaged and needed to be replaced.

2. The informant, on being told the cost of these parts, got aggrieved as the cost of the treadmill (INR 27000) (including the three above mentioned spare parts) was less than the replacement cost of three spare parts i.e. INR 28838. The informant stated that OP was the only pan-India fitness company in India with a retail presence of over 50 stores in key cities and thousands of commercial installations (as given on company's website) and claimed that it abused its dominant position. Therefore, the informant prayed that OP be penalized / fined under the Competition Act, 2002 ('the Act') for contravention of section 4 of the Act and be instructed to refund the full amount of the Treadmill with compensation for harassment, mental torture and loss of informant's health and fitness.

3. It was submitted by the OP that the informant had purchased the said treadmill on 04/05/2009 for Rs. 27,000, against MRP of Rs. 40,900/- due to a clearance sale of old models. It was further submitted that every treadmill comes with one year warranty given by the OP. After the expiry of warranty period of one year, the informant did not pay for extension of warranty on his treadmill nor did he enter into an annual maintenance contract for his machine. The informant was using the treadmill without any periodic maintenance and upkeep. The said treadmill developed a fault in September, 2012 i.e. more than three and half years after the expiry of the warranty and it was found that the Belt, MCB and the Electric Motor of the treadmill required replacement. The OP further submitted that since it only imported the fitness machines and was not a manufacturer, the cost estimate (INR 28838) provided by it was based on the cost of the said spare parts to be imported from the manufacturer. Therefore, the OP did not contravene any of the provisions of the Act.



4. The Commission heard the parties and considered the information on record. The informant had alleged abuse of dominant position by the OP under section 4 of the Act. The Commission observed that treadmill was a fitness device used for fitness exercises. It consisted of a moving platform with a wide conveyor belt driven by an electric motor or a flywheel. On the basis of its primary functioning, different versions of motorized tread mills were considered as substitutable to each other with slight variation in prices. Therefore, the relevant product market in the instant case would be the market of motorized tread mills. The relevant geographic market can be considered as the territory of India as the conditions of competition for the said product i.e. tread mill are homogeneous throughout the country. As such the relevant market in this case would be the 'market for sale of motorized tread mill in India'.

5. As per the information available in public domain there were many motorized treadmill manufacturers and importers in India such as Cosco (India) Ltd, Reebok, JERAI Fitness Pvt. Ltd. etc and every player claims to be the largest. The Informant did not provide such data so as to suggest that OP held a dominant position in the relevant market of motorized tread mill machine in India. The Informant only stated that OP was a pan India Fitness Company with 50 retail stores in the major cities. It was observed that there were number of fitness equipment and treadmill manufacturing companies operating in India having pan India presence and more number of retail stores than OP. It seems implausible in such a scenario to accept that OP held a position of strength, which enabled it to operate independently of competitive forces prevailing in the relevant market or affect its competitors or consumers or the relevant market in its favour.

6. In view of the foregoing discussion and after considering the entire material on record, the Commission is of the view that *prima facie* OP is not a dominant player in the relevant market and the question of abuse under section 4 of the Act would, therefore, not arise.



7. For the reasons stated above, the case deserves to be closed under section 26(2) of the Act and is hereby closed. The Secretary is directed to inform the parties accordingly.

New Delhi

Dated: 02.01.2014

Sd/-  
(Ashok Chawla)  
Chairperson

Sd/-  
(Dr. GeetaGouri)  
Member

Sd/-  
(S.N. Dhingra)  
Member

Sd/-  
(M.L. Tayal)  
Member

Sd/-  
(S.L. Bunker)  
Member