



COMPETITION COMMISSION OF INDIA

Case No. 81 of 2014

In Re:

Muthoot Mercantile Limited

Informant

And

1. **State Bank of India (Through the Chairman)**
State Bank Bhavan, Central Office, 8th Floor
Madame Cama Marg, Mumbai **Opposite Party No. 1**
2. **State Bank of Travancore**
(Through the Managing Director)
Head Office, Poojappura, Trivandrum **Opposite Party No. 2**
3. **Canara Bank**
(Through the Chairman & Managing Director)
Head Office 112, J. C. Road, Bangalore **Opposite Party No. 3**
4. **Indian Overseas Bank**
(Through the Chairman & Managing Director)
763, Anna Salai, Chennai **Opposite Party No. 4**
5. **The Federal Bank Ltd.**
(Through the Chairman)
Federal Gardens Road, Aluva, Kerala **Opposite Party No. 5**
6. **South Indian Bank Ltd.**
(Through the Chairman)
T.B. Road, Mission Quarters, Thrissur **Opposite Party No. 6**



7. **Catholic Syrian Bank Ltd.**
(Through the Chairman)
PB No. 502, St. Mary's College Road, Thrissur **Opposite Party No. 7**
8. **IDBI Bank Ltd.**
(Through Chief Managing Director)
WTC Complex, Colaba, Mumbai **Opposite Party No. 8**
9. **Central Bank of India**
(Through Chairman & Managing Director)
Chander Mukhi, Nariman Point, Mumbai **Opposite Party No. 9**
10. **Syndicate Bank**
(Through Chairman & Managing Director)
II Cross, Gandhi Nagar, Karnataka **Opposite Party No. 10**
11. **Vijaya Bank**
(Through Chairman & Managing Director)
41/2, Trinity Circle, M.G. Road, Karnataka **Opposite Party No. 11**
12. **Dhanlaxmi Bank Ltd.**
(Through the Chairman)
Dhanlakshmi Buildings, Naickanal, Thrissur **Opposite Party No. 12**

CORAM

Mr. Ashok Chawla
Chairperson

Mr. Sudhir Mital
Member

Mr. U. C. Nahta
Member

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Appearances: Shri M. L. Lahoty, Senior Advocate with Advocates S/ Shri Paban K. Sharma, Mohit Lahoty and Ms. Gaugi Bhatta Bharali; for the Informant.

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

1. The present information has been filed by Muthoot Mercantile Limited ('the **Informant**') under section 19(1) (a) of the Competition Act, 2002 ('the **Act**') against the above named scheduled commercial banks alleging *inter alia* contravention of the provisions of section 3 of the Act.
2. Facts, as gathered from the information, may be briefly noted:
3. The Informant is a Non-Banking Financial Company (NBFC) registered with the Reserve Bank of India (RBI) and, *inter alia*, engaged in the business of money lending against pledges of gold ornaments since 2002. The Opposite Parties are the scheduled commercial banks registered with RBI and *inter alia* engaged in the business of accepting deposits, providing loans and offering basic investment products.
4. The present information is laid by the Informant seeking an inquiry into the alleged contraventions of the provisions of section 3 of the Act by the Opposite Parties by forming a cartel and launching a new gold loan product *viz.* agri-gold loan at the rate of four percent (4%) thereby causing adverse/detrimental effect on the Informant and other similarly situated NBFCs dealing in gold loan.
5. It is alleged that the concerted bid of the Opposite Parties to throw the Informant and the identically situated NBFCs out of the competition is borne out of the fact that the Opposite Parties not only offered the gold loan product at the rate of 4% in the name of agri-gold but also shut their eyes to the end use of the loans so offered. It was stated that RBI *vide* its circular dated



09.11.2012 took note of this co-ordinated circumvention of its guidelines stipulated for Interest Subvention Scheme by the Opposite Parties and stated that the banks in various regions had failed to ensure the end use of funds disbursed ostensibly as crop loans. The banks were advised to strengthen their systems for pre-sanction scrutiny and post-disbursement supervision and also consider carrying out post-disbursement audits to ensure that all crop loans for which interest subvention was claimed were being used for the stated purpose and there was no diversion of funds. Further, RBI made it clear that the banks would not be entitled to any Interest Subvention Scheme, if found not meticulously complying with the criteria specified in its circular.

6. It is alleged that the note of caution sounded by RBI was completely disregarded by the Opposite Parties indicating strong anti-competitive arrangement as they continued to harm NBFCs by offering and marketing their gold loan products under the umbrella of the Interest Subvention Scheme as also granting loans to fake/bogus swindlers causing colossal loss to the national exchequer.
7. In support of the information, reference has been made to various newspaper reports to cite instances of the collusive campaigning by the banks. It is alleged that the anti-competitive drive launched by the Opposite Parties in furtherance of their common design reached its peak in the year 2013-14 making it extremely difficult for NBFCs to hold on to their business as their market share of gold loan business dwindled substantially. It is stated that the advertisements were full of allurements offering gold loan camouflaged as agri-gold loan at throwaway interest rate of 4%.
8. It is also averred that the impact of anti-competitive drive by the Opposite Parties was so severe on the Informant that its gold loan business went into downswing. It has been pointed out that till before one and half year the Informant had been struggling hard to mobilize funds to satisfy the increasing demand of the pledgers who were thronging its branches for availing gold loan. But for the past eighteen months, the gold loan business of the Informant



has fallen off to almost half as the commercial banks are lavishly advancing enormous money on gold pledges at a very meagre interest rate viz. 4% as 'agricultural loans'.

9. In light of the above facts and circumstances, it was averred that the offer of loan by the Opposite Parties at the rate of 4% under the guise of agricultural loan against the pledge of gold in circumvention of the Interest Subvention Scheme is nothing but collusive pricing prohibited under section 3 (3)(a) of the Act. The market share of the Informant is also stated to have suffered substantial shrinkage directly resulting from the Opposite Parties acting in cartel which limited and controlled the market of gold loan business causing appreciable adverse effect on competition in terms of section 3 (3)(b) of the Act.
 10. The Commission has perused the material available on record besides hearing the senior counsel appearing for the Informant.
 11. The Informant is aggrieved of the conduct of the Opposite Parties in offering loans at the rate of 4% under the guise of agricultural loan against the pledge of gold, which is alleged to be in abuse of Interest Subvention Scheme of the Government of India.
 12. The Informant has adduced some newspaper reports with the information which indicate abuse of Interest Subvention Scheme by the Opposite Parties in camouflaging gold loans as agri-gold loans at a throwaway interest rate of 4%. The Informant has also placed on record various advertisements issued by the Opposite Parties offering agri-gold loans at the rate of 4%.
 13. It is the case of the Informant that under the garb of Interest Subvention Scheme, the Opposite Parties joined hands and reached the agreement to exploit the Scheme to determine the price and control the gold loan business. Further, the Informant avers that even after RBI categorically clarifying that the benefit of Interest Subvention Scheme was not meant for agri-gold loans or
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gold loan, the cartelized behavior of the Opposite Parties continues unabated. It is alleged that the co-ordinated pursuit of the Opposite Parties to aggressively offer and market their agricultural loan product against the pledge of gold in defiance of RBI instructions is a clear pointer at commonality of intention arrived at in concert by the Opposite Parties to create anti-competitive circumstances for the Informant and similarly situated NBFCs.

14. Further, the Informant is aggrieved of the fact that since gold is provided as collateral, the Opposite Parties, while disbursing the said loan do not carry out detailed due diligence both pre and post sanctioning of the loan to verify that the loan amount is in fact sanctioned and being used for agricultural purposes as per the RBI Guidelines, and consequently ousting the Informant and other similarly situated NBFCs from the market.
15. The Informant, save and except placing on record the advertisements issued by the banks as aforesaid, has not placed on record any material which is indicative of any collusion or concerted practice on their part which can be said to be in contravention of the provisions of section 3 of the Act.
16. It may be observed that parallel behaviour needs to be substantiated with the additional evidence or the plus factors to bring it into the ambit of prohibited anti-competitive agreements. There is nothing on record to even *prima facie* persuade the Commission that the alleged agreement has been arrived at by the Opposite Parties in concert.
17. The grievances made by the Informant pertain to alleged abuse of Interest Subvention Scheme and contravention of RBI Guidelines, remedies whereof lie elsewhere.
18. In view of the above discussion, no case of contravention of the provisions of section 3 of the Act is made out against the Opposite Parties and the information is ordered to be closed forthwith in terms of the provisions contained in section 26 (2) of the Act.



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

Sd/-

(Ashok Chawla)

Chairperson

Sd/-

(Sudhir Mital)

Member

Sd/-

(U. C. Nahta)

Member

New Delhi

Date: 30.12.2014