



COMPETITION COMMISSION OF INDIA

Case No. 01 of 2015

In Re:

**Shri Shrikant Shivram Kale
Flat No. 02/02, Raviraj Empire,
Shri Samrath Nagar, Tapowan Link Road,
Near Kathe Gali, Dwarka, Nashik.**

Informant

And

**M/s Suzuki Motorcycle India Private Limited
Village- Kherki Dhaula, Badshahapur,
NH-08, Link Road, Gurgaon**

Opposite Party

CORAM

**Mr. Ashok Chawla
Chairperson**

**Mr. S. L. Bunker
Member**

**Mr. Sudhir Mital
Member**

**Mr. Augustine Peter
Member**

**Mr. U. C. Nahta
Member**



सत्यमेव जयते



Appearances: None for the Informant.

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

1. The present information has been filed by Shri Shrikant Shivram Kale ('the Informant') under section 19(1)(a) of the Competition Act, 2002 ('the Act') against M/s Suzuki Motorcycle India Private Limited ('the Opposite Party') alleging *inter alia* contravention of the provision of section 4 of the Act.
2. Facts of the case, may be briefly noted:
3. The Opposite Party deals in the business of selling different varieties of two wheelers and one of the variants is ACCESS 125 CC. It is alleged that the Opposite Party is directly/ indirectly imposing unfair and discriminatory conditions in the sale of ACCESS 125 CC.
4. The Informant has further alleged that the Opposite Party is restricting the provision of services leading to denial of market access to local auto garage owners. The Opposite Party is allegedly misusing its dominant position to deprive poor garage owners from their due share in the market. It is submitted that a customer is not entitled to avail free services of the Opposite Party in case he visits a local auto garage for paid services.
5. As per clause 'Limitation of Warranty' in the owner's manual, '*if any of the free or paid service is not done as per the schedule, the warranty tends to stand void*'. The Informant has stated that he was informed by the dealer at the time of purchase of the two wheeler that six free services, subject to certain conditions, will be offered by the Opposite Party. The Informant has alleged that none of these so-called services were provided



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free, instead all charges were recovered from the cost of the two wheeler. It is so because when a customer goes to another dealer of the company for free servicing then the charges incurred for free servicing by that dealer would be reimbursed by the original dealer from whom the vehicle was purchased. This practice is allegedly being done directly or through the Opposite Party. It is alleged that this is possible only when charges for the so-called 'free services' are included in the profit of the dealer.

6. The Informant has alleged that as per the schedule mentioned in the owner's manual, free service coupons were provided for alternate services *i.e.* if paid services are done with the dealer of the Opposite Party only then the customer is eligible for the free services. If a customer goes to a local auto garage for the paid services, he would not be entitled to avail the remaining free services. It is alleged that these conditions were made applicable only to mopeds having 125 CC engine.
7. Based on the above averments, the Informant has alleged that the conduct of the Opposite Party is violative of the provisions of section 4 of the Act and has prayed, *inter alia*, for initiating action against the Opposite Party for resorting to such unfair trade practice by using its dominant position.
8. The Commission has perused the material available on record. Pursuant to the notice issued by the Commission, the Informant *vide* letter dated 16.02.2015 regretted his inability to appear and make oral submissions before the Commission and requested that the matter may be decided as per the information.
9. It appears that the grievance of the Informant essentially relates to the alleged anti-competitive and restrictive conditions attached with the sale of the two wheeler which allegedly also lead to denial of market access to local garage owners.



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10. As the allegations primarily relate to sale of two wheelers, the relevant product market may be taken as “market of the manufacturing and sale of two wheeler vehicle”. In so far as the delineation of the relevant geographic market is concerned, it may be observed that the conditions of competition appear to be homogenous throughout the country and as such whole of India may be taken as the relevant geographic market. Accordingly, the “market of the manufacturing and sale of two wheeler vehicle in India” would be the relevant market in the present case.
11. It appears that there are many players who are operating in the said relevant market including Hero MotoCorp Ltd., Honda Motorcycle and Scooter India (Pvt.) Ltd., Bajaj Auto Ltd., TVS Motor Co. Ltd., India Yamaha Motor Pvt. Ltd., Suzuki Motorcyle India Pvt. Ltd., Mahindra Two Wheelers Ltd., and Eicher Motors Ltd. In view of such market construct and structure, *prima facie* it does not appear that the Opposite Party enjoys the dominant position in the relevant market. Further, the Informant has also not filed any material to substantiate the dominance of the Opposite Party.
12. In view of the above, the Commission finds that no *prima facie* case of contravention of the provisions of section 4 of the Act is made out against the Opposite Party in the instant matter. Accordingly, the matter is closed under the provisions of section 26(2) of the Act.
13. The Secretary is directed to inform all concerned accordingly.

Sd/-
(Ashok Chawla)
Chairperson



Sd/-
(S. L. Bunker)
Member

Sd/-
(Sudhir Mital)
Member

Sd/-
(Augustine Peter)
Member

Sd/-
(U. C. Nahta)
Member

New Delhi
Date: 19/03/2015