



Case No. 02 of 2014

In Re:

M/s Shri Revanasiddeshwar Automobiles (SRA)

Through

Shri Maheshwar V. Hiremath

Informant

And

1. M/s HeroMotoCorp Limited

Opposite Party No. 1

2. Shri Shilesh Shukla

Senior Area Manager- Karnataka

M/s HeroMotoCorp Limited

Opposite Party No. 2

3. Shri Durudundeshwar of SRA

Opposite Party No. 3

4. Shri Durundayya of SRA

Opposite Party No. 4

5. M/s Shri Renuka Motors (SRM)

Represented by

Shri Chidananda

Opposite Party No. 5

6. M/s Shri Renuka Motors (SRM)

Represented by

Shri Shivaprakash

Opposite Party No. 6



CORAM

Mr. Ashok Chawla
Chairperson

Dr. Geeta Gouri
Member

Mr. Anurag Goel
Member

Mr. M. L. Tayal
Member

Mr. S. L. Bunker
Member

Appearances: Shri B. S Hiremath and F. S Patil, advocates for the informant.

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

The present information has been filed on behalf of a partnership firm in the name of M/s Shri Revanasiddeshwar Automobiles (SRA) by one Shri Maheshwar V. Hiremath - describing himself as Power of Attorney holder of SRA ('the Informant') - under Section 19 (1) (a) of the Competition Act, 2002 ('the Act') against the Opposite Parties (OPs) mentioned above for their alleged anti-competitive conduct.

2. Factual matrix, as culled out from the information and the documents filed therewith, may be briefly noted.
3. As per the information, Shri Maheshwar V. Hiremath is a relative of Hiremath family of Chikkodi in Belgaum district of Karnataka and in partnership with OP 3 to OP 6 in SRA.



4. It is stated that all the relative members of the Hiremath family along with Shri Maheshwar took the decision to establish a Spare and Service Point (SSP) of OP 1 in the name and style of M/s Shri Revansiddeshwar Automobiles in the regional and geographical market of Chikkodi. Accordingly, for customary auspiciousness, a partnership deed in the name of OP 5 and OP 6 was executed on 23.06.1998. As per the information, Shri Maheshwar V. Hiremath himself in the year 1998 had made request to OP 1 to establish SSP in Chikkodi for its automobile spare products and services. For establishment and running of SSP, all the initial and subsequent investments were stated to be made from the family funds collectively. Space and place was arranged in the family building standing in the name of OP 3, OP 4 and other family members.
5. On retirement of OP 5 and OP 6 from the business, another partnership deed was executed on 01.04.2002 between OP 4, Gangadhar Somashekhar Hiremath, Kallayya Veersangayya Hiremath and OP 3 to run the said business. Further, on death of Kallayya Veersangayya Hiremath his wife Smt Sweta became one of the partners of SRA on 14.05.2004, through execution of a partnership deed to that effect.
6. It is averred that as the business grew, officials of OP 1 and OP 2 (*viz* Shri Varadaraaj, Shri Satyanarayan and Shri N. S. Shetti) used to meet the Informant frequently in SSP to discuss the developments and pressed the Informant for further investment in construction, renovation of building, purchase of necessary machineries for auto motor services, other equipments and furniture, etc., in order to make their company's SSP as one of the qualitative one with aesthetics.
7. It is stated that the Informant and other members of the family invested their money, time, and human resources in SRA by virtue of which, OP 1 offered dealership of its motorbike products to SRA along with earlier SSP by an agreement dated 14.03.2002. It is submitted that the enterprise SRA was flourishing and OP 1 was happy.
8. Considering the supervisory help of Shri Maheshwar V. Hiremath in running SRA, he was also taken in the said partnership business of SSP and dealership through execution of partnership deed on 08.11.2011 along with another family member Vinay Kallayya Hiremath, who replaced his mother Smt. Shweta on her retirement from the business.



9. It is alleged that while effecting the partnership deed on 08.11.2011 with Shri Maheshwar V. Hiremath, OP 3 and OP 4 complained to Union Bank of India, Chikkodi that OP 1 has not accepted the new partnership deed dated 08.11.2011 and requested the bank not to give effect to that partnership deed. Thereafter, it is averred that SRA was made to lose its business of re-sales and services of OP 1 in its existing relevant geographic market of Chikkodi.
10. It has been alleged that OP 1 and OP 2 fraudulently by colluding with OP 3 to OP 6 have made a new anti-competitive agreement for the same SSP and dealership in the name and style of Shri Renuka Motors (SRM) which is stated to start by end of January, 2014. This is stated to be in breach and violations of Articles VIII, XI, XII, XIII, XVI, XVII, XVIII, XIX, XX and XXIV of the dealership agreement signed with SRA and Articles XXV and XXVI of the said agreement have been reduced to redundancy as OP 3 to OP 6 themselves breached the terms of their family deeds in partnership arrangements.
11. Based on the above averments and allegations, the Informant has prayed to the Commission to:
- (a) *take cognizance of this prima-facie case, immediate inquiry and investigation be initiated against the 'contraveners';*
 - (b) *restrain M/s Shri Renuka Motors, being formed in 'collusive bid-rigging' with unfair and malpractices, from establishing and starting its operations by passing suitable ex-parte ad-interim injunctions by the Commission;*
 - (c) *restore M/s Shri Revanasiddeshwar Automobiles' original business operations of SSP and dealership with the Informant and his other family member-associates;*
 - (d) *award costs of the information/case proceedings; and*
 - (e) *grant any other relief as the Commission deems fit.*



12. The Commission has perused the information/additional information and the documents filed therewith by the counsel for the Informant. The Commission has also heard the counsel appearing for the Informant.
13. On a careful perusal of the information and the material available on record, it appears that OP 1 appointed Shri Shivaprakash and Shri Chidanand as SSP dealer in 1999 upon the submission that Shri Shivaprakash was the Managing Partner of the partnership concern SRA. SSP arrangement appears to have been entered into by OP 1 with the said partnership firm. Subsequently, in 2002, the said arrangement was terminated and a dealership agreement dated 17.02.2003 was executed by OP 1 with the same partners.
14. It appears that in February, 2012, pursuant and subsequent to some family related issues and disputes with the above noted two partners (who were the only partners in SRA), some family members of Shri Shivaprakash and Shri Chidanand were inducted into the partnership firm without any prior intimation or approval of OP 1. In the circumstances, Shri Shivaprakash and Shri Chidanand tendered their resignation to OP 1 whereupon the latter issued a public notice dated 28.12.2012 withdrawing the arrangement/ dealership with Shri Shivaprakash and Shri Chidanand.
15. Furthermore, it seems that the other family members who were added to the partnership firm SRA wrote letters to OP 1 requesting *inter alia* withdrawal of said public notice and continuation of arrangement/ dealership irrespective of Shri Shivaprakash and Shri Chidanand being partners or not. However, OP 1 chose to appoint a fresh dealership to Shri Shivaprakash and Shri Chidanand on 30.10.2013 as an independent measure under the name and style of Shri Renuka Motors (SRM) which is stated to commence business by the end of January, 2014.
16. The Commission notes that OP 1 entered into a dealership agreement with SRA which comprised Shri Shivaprakash and Shri Chidanand only. Subsequent reconstitution and induction of new partners was neither intimated/ approved to/ by OP 1. In the circumstances, OP 1 *vide* its public notice 28.12.2012 informed the public that SRA has ceased to be its dealer w.e.f 06.11.2012.



Competition Commission of India



17. In these circumstances, the present information filed by Shri Maheshwar V. Hiremath purportedly on behalf of SRA is wholly misconceived. It appears that Shri Maheshwar V. Hiremath, through the instant information, after getting himself inducted into SRA without any intimation or approval to/ from OP 1 is seeking OP 1 to continue the dealership in favour of SRA, which ceased to exist w.e.f 06.11.2012.
18. The information appears to be a family business and contractual feud which has been sought to be projected as a competition issue. The Informant has made various allegations relating to 'cartel', 'collusive bid rigging', and 'refusal to deal' etc. without in any manner, whatsoever, explaining the basis much less substantiating the same. The Informant has made allegations which have no bearing upon competition in the markets.
19. The information does not disclose any competition issue.
20. In view of the above discussion, the Commission is of the opinion that, *prima facie*, no case of contravention of the provisions 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.
21. The Secretary is directed to inform the parties accordingly.

Sd/-
(Ashok Chawla)
Chairperson

Sd/-
(Geeta Gouri)
Member



Competition Commission of India



**Sd/-
(Anurag Goel)
Member**

**Sd/-
(M. L. Tayal)
Member**

**Sd/-
(S. L. Bunker)
Member**

New Delhi

Date: 11-03-2014