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Fair Competition
For Greater Good

COMPETITION COMMISSION OF INDIA

Case No. 05 of 2015

In Re:

**Shri Kamble Sayabanna Kallappa,
13/220, Tejas Nagar,
Reynolds Road,
Mumbai- 400037**

Informant

And

**M/s Lifestyle International Private Ltd.
Max Retail Division
77 Town Center, Building No. 3,
West Wing, off Old Airport Road,
Yamalur P.O., Bangalore- 560037**

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**



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

1. The information was filed by Shri Kamble Sayabanna Kallappa (hereinafter referred to as the “**Informant**”) under section 19(1) (a) of the Competition Act, 2002 (hereinafter referred to as “**the Act**”) against M/s Lifestyle International Private Ltd. (hereinafter referred to as “**Opposite Party/OP**”), alleging, *inter alia*, contravention of the provisions of section 4 of the Act.
2. Briefly, Informant is a resident at Tejas Nagar, Reynolds Road, Mumbai. As per the official website of OP, it is a part of Dubai based retail and hospitality conglomerate, Landmark Group. It is engaged in the business of selling apparels, footwear, home ware & furnishing and beauty & accessories under one roof. OP has several stores offering such services across India by the name ‘Lifestyle’.
3. The Informant stated that he had purchased clothes from OP’s store at Mumbai and was told by one of the staff at the counter that an additional cost of Rs. 5 will be charged for a plastic bag, if he needs the same. That the Informant objected to the extra cost and requested them to pack the goods purchased in other bags like paper bags or jute bag. Further, in response the representatives of OP informed him that they do not have any such system and that it was the organization’s policy that if any customer wants a plastic bag they may pay for the same or else carry their materials on their own.
4. It was stated that the Informant yet again reminded the representatives of OP that the cost of product involves all the charges including the packing of the said product and that asking the consumer in addition to the purchased price is unfair. OP responded that they were following the directions of the Notification by the Ministry of Environment and Forest whereby they have been instructed not to sell the purchased materials in plastic bags and charge extra in case a customer requires the same. With regard to the said Notification by the Ministry, Informant argued



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that the purpose of the notification was to control the menace of plastic and for that they issued the direction that the plastic carry bags should not be provided for free but nowhere it is stated that the seller/retailer should not deliver the purchased materials in packing mode. He also contended that OP was not restrained from using other materials like paper bags, wood-pulp bags, jute bags, etc.

5. On being aggrieved with the attitude of OP, Informant served them a notice dated 15.12.2014 asking them to stop such anti-consumer practice immediately and use materials like paper bags, wood-pulp bags, jute bags, etc. instead of plastic carry bags. Denying the allegations in its reply dated 09.01.2015, OP stated that as per Notification dated 04.02.2011 notified under Plastic Waste (Management & Handling) Rules, 2011 which was issued by the Ministry of Environment and Forest (MEF), retailers have been barred from making plastic carry bags available to customers free of cost and that it was mandatory for retailers to charge plastic carry bags as per standard pricing fixed by concerned municipal authorities depending upon the quality and size of the same.
6. Informant alleged that since OP holds a dominant position as it has branches worldwide it has abused its dominant position by charging extra cost of Rs. 5 for carry bags in the guise of organisation's policy. It is also stated in the information that Informant had filed a complaint before the district consumer forum on the said issue.
7. Aggrieved by the alleged abusive conduct of OP, Informant prayed that the Commission may punish the OP for their conduct.
8. The Commission perused the information filed by the Informant. It appears that the Informant is primarily aggrieved by the additional amount of Rs. 5/- charged by OP for plastic carry bags. The Informant submitted that OP holds a dominant position



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as it has branches worldwide and that it has abused its dominant position by charging additional amount in the guise of its policy.

9. In view of the facts and circumstances the Commission does not deem it necessary to define the relevant market as the alleged conduct of OP i.e., charging of an additional amount of Rs.5/- for plastic carry bags, was carried out in accordance with the provisions of Plastic Waste (Management & Handling) Rules, 2011, which was notified by the MEF *vide* notification dated 04.02.2011. The Commission also notes that the retailers were barred under the above said Rules from making plastic carry bags available to the customers free of cost in order to encourage the customers for their re-use so as to minimize plastic waste generation. There does not appear to be any competition issue in the instant matter which requires intervention by the Commission. Therefore, the allegation of the Informant that the conduct of OP amounts to abuse of dominant position in terms of the provisions of section 4 of the Act is misplaced.
10. In view of the above, the Commission opines that no *prima facie* case is made out against OP for contravention of the provisions of section 4 of the Act and the information is ordered to be closed forthwith in terms of the provisions contained in section 26(2) of the Act.
11. 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
Dated: 18.03.2015