



COMPETITION COMMISSION OF INDIA

Case No. 44 of 2017

In re:

Akhil R. Bhansali
2nd Floor, Old No. 111 New No. 139
Poonamallee High Road,
Opp. Blue Diamond Hotel,
Chennai – 500084, Tamil Nadu

Informant

And

Skoda Auto India Pvt. Ltd.
(Represented by its Managing Director Shri Sudhir Puskur Rao)
Plot No. A-1/1,
Shendra Fivestar Industrial Area,
MIDC, Aurangabad - 431201, Maharashtra **Opposite Party No. 1**

Bernhard Maier,
Chief Executive Officer and Chairman,
Board of Management,
Skoda Auto India Pvt. Ltd.,
Plot No. A-1/1, Shendra Fivestar Industrial Area,
MIDC, Aurangabad - 431201, Maharashtra **Opposite Party No. 2**

CORAM

Mr. Devender Kumar Sikri
Chairperson

Mr. S. L. Bunker
Member

Mr. Sudhir Mital
Member



Mr. Augustine Peter
Member

Mr. U. C. Nahta
Member

Justice G. P. Mittal
Member

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

1. The information in the present matter has been filed by Shri Akhil R. Bhansali (**‘Informant’**) under Section 19(1)(a) of the Competition Act, 2002 (the **‘Act’**) against Skoda Auto India Pvt. Ltd. (**‘OP-1’**) and Shri Bernhard Maier, Chief Executive Officer and Chairman of the Board of Management, Skoda Auto India Pvt. Ltd. (**‘OP-2’**) [hereinafter, OP-1 and OP-2 collectively referred to as the **‘OPs’**] alleging contravention of the provisions of Section 4 of the Act.
2. The Informant is stated to be the owner of a Skoda Laura car bearing registration no. TN 09 BD 3848. OP-1 is a wholly owned subsidiary of the Skoda Auto AG, a Czech automobile manufacturer, involved in manufacturing and assembling Skoda cars in India. OP-1 also undertakes activities of distribution of automobile parts (engine), spare parts and provision of after sales services through its select dealers across India. OP-2 is the Chief Executive Officer and Chairman of the Board of Management of OP-1.
3. The Informant has stated that for almost 2 years, his Skoda Laura car has been exhibiting a very peculiar starting problem, which has remained unresolved despite the car being sent for repairs almost a dozen times to the sole authorised dealer appointed by OP-1 in Chennai *i.e.* Gurudev Motors Pvt. Ltd. It is averred that Gurudev Motors Pvt. Ltd. has been following a trial and error method to resolve the problem in the car. Over the last two years, it has replaced several parts, yet the problem remained unresolved. The Informant has stated an instance whereby Gurudev Motors Pvt. Ltd. had suggested for replacement of a



part *i.e.* 'throttle body' to resolve the problem for which, initially, it gave an oral estimate of Rs. 16,000/- to Rs. 18,000/-. Subsequently, *via* email it sought approval for Rs. 25,000/- for the same and eventually, it raised an invoice for about Rs. 33,000/- at the time of replacement of the said spare part. When the Informant asked the reason for such huge price difference, Gurudev Motors Pvt. Ltd. informed that it had initially quoted price of the wrong spare part and the price of the spare part that was installed in the car was much higher. The Informant states that he did not have any recourse to reconfirm the price of the spare part as neither the website of OP-1 discloses the same nor did its customer care reveal the same.

4. It is also submitted that the spare parts sold by OP-1 to the end users are available exclusively at the selective and exclusive dealers appointed by OP-1 and can be purchased from the said dealers only when the services rendered by them are also availed. It is averred that OP-1 is forcing the owners of its cars to get their vehicles repaired, serviced and maintained only by the exclusive dealers appointed by OP-1. In addition, the Informant has alleged that there exists an anti-competitive agreement whereby the OPs, in concert with their dealers, are depriving the consumers from purchasing the original equipments/ spare parts of OP-1 from elsewhere.
5. Further, the Informant has submitted that OP-1 has appointed a single and exclusive dealer for the entire city of Chennai. Due to its absolute monopoly, the said dealer is emboldened to misuse its dominant position and extort the consumers. The Informant has stated that there is a growing list of complaints by the consumers against the said dealer of OP-1 pertaining to overcharging practices, inflated billing, outrageous pricing of spare parts, installation of spurious parts, forcing customers to replace parts which are not even required to be replaced, unreliability concerns on account of breakdown of vehicles *etc.* It is averred that OP-1 has not appointed any other dealer in Chennai despite such increasing number of complaints against Gurudev Motors Pvt. Ltd. pertaining to the above. The Informant has also alluded to the dealer network of



OP-1, as depicted on its website, to show that OP-1 has single owned dealership in various states. It is averred that this is done by OP-1 with the motive to empower the dealers with dominant position and provide them with an opportunity to abuse their position of dominance. The Informant has alleged that the conduct of OP-1 in not appointing enough dealers amounts to limiting or restricting the provision of services in contravention of the provisions of Section 4 of the Act.

6. Aggrieved by the aforesaid conduct of the OPs, the Informant issued a legal notice to the OPs and their management in Czech Republic regarding the deficiencies in services to which OP-1 replied in an ambiguous manner and denied all the allegations of anti-competitive practices or abuse of dominant position.
7. In view of the above facts and circumstances, the Informant has prayed that the Commission directs the OPs to appoint reputed dealers that are unconnected to the existing dealers in the city of Chennai, to release a list of each and every spare part/ consumable and their maximum retail price, to enable sale of spare parts over the counter without insisting on payment of service charges and to disclose to all current/ prospective customers about payment of customs and other duties on all spare parts. The Informant has also prayed to the Commission to direct stay on sale of any new cars by the OPs until the above conditions are complied with, direct the OPs to pay costs of the complaint and pass any other order as the Commission deems fit in the circumstances of the case.
8. The Commission has perused the information and the material available on record. It is observed that the Informant has alleged abuse of dominant position by the OPs in terms of Section 4(2)(b) of the Act for limiting and restricting provision of services by appointing only limited number of dealers, making spare parts available only at select and exclusive dealership, *etc.* However, on careful perusal of the facts and allegations in the matter, it is observed that the primary grievance of the Informant relates to the quality of service being



provided by the authorised dealer of OP-1 in Chennai *i.e.* Gurudev Motors Pvt. Ltd. The allegations pertaining to abuse of dominance appear to have been made by the Informant to project an issue of consumer grievance as competition issue. The Informant has filed no substantive evidence to support its contentions of contravention of the provisions of the Act by the OPs. In case the services provided by the dealer had been to the satisfaction of the Informant, the Informant would not have had any reason to file this information with the Commission. In any event, the allegations pertaining to abuse of dominance against the OPs have already been dealt with and decided upon by the Commission in Case No. 03 of 2011 (In Re: Shri Shamsheer Kataria and Honda Sael Cars India Ltd. and Ors.).

9. Thus, based on the facts and circumstances of the case, the Commission observes that the allegations in the instant matter appear to be a case of deficiency in after sales services by the authorised dealer of OP-1 at Chennai which is a case of an individual consumer dispute and there is no competition issue involved in the matter. It may be noted that similar issues have arisen in various other cases before the Commission wherein it has been observed that the consumer disputes such as deficiency in services would fall under the Consumer Protection Act, 1986. In Case No. 32 of 2012, filed by Subhash Yadav against Force Motor Limited and Ors., the Commission has held that:

“It may be noted that the aim and object of the Act, is to prevent the practices having adverse effect on the competition, to promote competition and thereby to protect the interest of the customers. In a nutshell, the purpose of this Act is to protect and promote fair competition in the markets in India. However, for the protection of individual consumer interest, there is another statute already in existence known as Consumer Protection Act, 1986 ('the Act of 1986') which mainly deals with protection of consumer interest against the deficiencies in services or goods being purchased by the consumers from sellers.”



10. In light of the above analysis, the Commission is of the view that the allegations of the Informant do not give rise to any competition concern. Accordingly, the Commission finds that no *prima facie* case of contravention of the provisions of Section 4 of the Act is made out against the OPs in the instant case and the matter is closed forthwith in terms of the provisions of Section 26(2) of the Act.
11. The Secretary is directed to communicate to the Informant accordingly.

Sd/-

(Devender Kumar Sikri)
Chairperson

Sd/-

(S. L. Bunker)
Member

Sd/-

(Sudhir Mital)
Member

Sd/-

(Augustine Peter)
Member

Sd/-

(U. C. Nahta)
Member

Sd/-

(Justice G. P. Mittal)
Member

New Delhi
Dated: 03.10.2017