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On 19 March, 2015, the competition regulator in India – the Competition Commission of India (“CCI”), passed an order rejecting charges that Suzuki Motorcycle India (“Suzuki”) had abused its dominant position in the market for manufacturing and sale of two-wheeler vehicles.

The allegation against Suzuki was that it imposed unfair and discriminatory conditions in the sale of its two-wheeler ACCESS 125cc, by limiting the customers’ entitlement to avail Suzuki’s free services in the event customers visit a local garage for paid services, thereby resulting in a denial of market access to local auto garage owners.

In order to reach the conclusion as set forth above, the CCI determined the ‘relevant market’ as being only the “market of the manufacturing and sale of two wheeler vehicles in India”.

Curiously however, in the recent decision of automobile parts manufacturers¹ (“Auto Parts case”), the CCI, while adjudicating the issue of whether automobile manufacturers had engaged in abusive conduct by imposing unfair and restrictive conditions in the after-sales market, had delved into the matter in much greater detail,

and had opined that “*there exist two separate relevant markets; one for manufacture and sale of cars and the other for the sale of spare parts and repair services in respect of the automobile market in the entire territory of India*”² [emphasis added].

The CCI, relying upon the “antitrust theory that each OEM was engaging in anti-competitive practices to prevent independent service repairers from competing with authorised dealers of such OEMs in the aftermarket for maintenance and repair services of such OEM manufactured automobiles³”, concluded that the “automobile primary market and the aftermarket for spare parts and repair services does not consist of a unified systems market⁴, that each OEM was a monopolistic player in the aftermarket.

In the Suzuki case, if the allegation was of the nature of denial of market access to local garage owners (i.e. independent repairers), which was one of the main issues that the CCI had deliberated upon in great detail in the Auto Parts case, before concluding that each OEM severely limited the access of independent repairers and other multi-brand service providers to genuine spare parts and diagnostic tools required to effectively compete with authorised dealers of OEMs in the aftermarket; and that such practices amount to denial of market access by the OEMs under section 4(2) of the Act⁵.

If the CCI has taken a view that the sales and the aftersales markets are different in the automobile industry, then surely the same standard needs to be adhered to for evaluating the two-wheeler market as well. There might have been other factors that the CCI may have evaluated, which factors, unfortunately have not been discussed in the order dated March 19, 2015, but the author vehemently feels that the CCI has missed a trick by not evaluating the allegations made in the Suzuki case in greater detail.

Since the defining lines have been marked by the CCI in one matter, there needs to be consistency with that line of reasoning for other matters as well, failing which, the interpretation of the statute will remain muddied, and the same will be the fate of decisions coming out of the CCI in the coming days.

¹ Shamsher Kataria v Honda Sael Cars & Others, Case No. 03/2011, decided on 25.08.2014; ² Ibid, at pg 136; ³ Ibid, at pg 143; ⁴ Ibid, at pg 135; ⁵ Ibid, at pg 156



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