



COMPETITION COMMISSION OF INDIA
Case No. 09 of 2023

In Re:

**Synco Industries Limited,
16 A-III, Heavy Industrial Area,
Jodhpur, Rajasthan – 342003**

Informant

And

**Hero FinCorp Ltd.,
34, Community Center, Basant Lok,
Vasant Vihar, New Delhi – 110057**

Opposite Party

CORAM:

**Ms. Ravneet Kaur
Chairperson**

**Ms. Sangeeta Verma
Member**

**Mr. Bhagwant Singh Bishnoi
Member**

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

1. The present information has been filed by **Synco Industries Limited** (**‘Informant’**) under section 19(1) (a) of the Competition Act, 2002 (**‘Act’**) alleging contravention of the provision of section 4(1) of the Act by **Hero FinCorp Ltd.** (**‘OP’**).
2. Informant is a public limited company, incorporated under the provisions of the erstwhile Companies Act, 1956 having its registered and corporate office at Jodhpur, Rajasthan and is engaged in manufacturing of engineering equipment.
3. OP is a non-banking financial company (NBFC), registered with the Reserve Bank of India.



4. As stated, the Informant was sanctioned a loan against property for a sum of Rs. 5,00,00,000/- (five crore) on 31.07.2018 from OP's branch located at Vasant Vihar, New Delhi. The said loan was sanctioned at a floating interest rate which was pegged to Hero FinCorp Prime Lending Rate (**HFC PLR**) at 12.00 percent per annum with a spread of (-) minus 1.5%. Thus, the payable interest was 10.5 % per annum, which was arrived at by reducing 1.5 % spread from the then HFC PLR of 12 %.

5. The Informant has stated that on the date of sanction, the Reserve Bank of India (RBI) repo rate was 6.25%, which was raised effective from the next day i.e., 01.08.2018 to 6.50% and the same was factored in the applicable HFC PLR of that date. After about 3 months i.e., on 06.11.2018, OP informed that the HFC PLR has been raised by 1% and as a result the net chargeable interest rate has gone up by 1% resulting in it becoming 11.5% from 10.5%.

6. The Informant further submitted that the RBI repo rate declined from 6.5% to 4%, and as a consequence the floating interest rate of the loan should have been reduced. However, OP never divulged the changes in its HFC PLR during this period and continued to charge higher rate of interest even though RBI repo rate and market rates dependent thereon had fallen drastically. The Informant has submitted that the best benchmark for market rates is State Bank of India's Marginal Cost of funds-based Lending Rate (MCLR) which also fell with repo rate.

7. Thereafter, Informant sought to prepay the loan which prompted OP to act and to retain the Informant's account and offered an interest rate reduction of 1.25% with a switch fee of Rs. 29,500/- though Informant had not sought any switch from floating rate to fixed rate or change in the 'spread'. It is the case of the Informant that it had only sought giving effect of the falling RBI repo rate and market rates of interest in the present loan agreement.

8. According to Informant, the aforementioned conduct of OP of not allowing the rate reduction/ adjustment amounts to abuse of dominant position. The Informant has further alleged that the exploitative mindset of the OP, as the events unfolded got exposed and it



became apparent that it was all done in a well-planned conspiratorial manner to exploit and overcharge the customer by gross abuse of the dominant position.

9. The aforementioned allegations claim that the OP, a dominant entity in the lending market, has been engaging in unfair practices and abuse of its position towards customers and borrowers. As per the information, these alleged practices *inter alia* include imposing arbitrary and usurious charges for various services, manipulating floating interest rates for pecuniary gains, and disregarding reductions in the repo rate to overcharge borrowers, which are in contravention of the provisions of the Act.

10. The Informant has sought multiple reliefs from the Commission, including an inquiry into the business practices of the OP and similar entities relating to benchmark floating interest rates, directions for transparency in rate-setting and other charges, issuance of a model draft agreement with fair conditions, and mandatory linking of floating rate funding to the RBI repo rate. Additionally, the Informant seeks the refund of excess interest, compensatory and punitive damages, disgorgement of extraordinary profits earned through abuse of dominant position, and any other orders deemed appropriate by the Commission.

Analysis of the Commission

11. After perusal of the information and material available on record, the Commission notes that the Informant is primarily aggrieved by the conduct of OP in not reducing the interest rate charged in accordance with the reduction in repo rate by the RBI and imposition of switching fees for giving effect of reduction in rate of interest.

12. The Commission also notes that for the purpose of examining allegations of the Informant under the provisions of section 4 of the Act, it is necessary to determine the relevant market at the first instance. Thereafter, it is required to assess whether OP enjoys dominant position in the said relevant market. Once such dominance of OP is established in the relevant market, then the question of examining the allegations of abuse of such dominance would arise.



13. At the outset, the Commission notes that OP is an ‘enterprise’ within the meaning of section 2(h) of the Act. The Commission also notes that the Informant has not delineated relevant market in the instant matter. Therefore, before examining the abuse of dominance by the OP, it is imperative to delineate the relevant market in terms of section 2(r) of the Act, which in turn requires delineation of relevant product market and relevant geographic market in terms of section 2(t) and 2(s) of the Act, respectively.

14. In the present case, the loan under consideration is loan against property. This is distinct from other types of loans such as personal loan, property loan, home loan, auto loan, appliances loan, education loan etc. Accordingly, the relevant product market in the present matter *prima facie* appears to be the “*market for provision for loan against property*”.

15. As regards, relevant geographic market, the Commission notes that there are many service providers in the aforesaid relevant market and they are competing with each other to provide loans against property. There exists no distinction between one region and another with reference to taking loans against property within India.

16. In view of the foregoing, the Commission is of the *prima facie* opinion that the relevant market for the purpose of the present matter may be defined as “*market for provision for loan against property in India*”.

17. As regards dominance of OP in the aforesaid relevant market, the Commission observes that apart from NBFCs, there are multiple financial institutions within the category of public sector banks, private sector banks, regional rural banks, *etc.* that compete among themselves for extending loan against property to eligible borrowers. Furthermore, the Informant has not provided any evidence of OP being dominant. Therefore, the Commission, relying on information available in public domain, is not inclined to believe that OP is dominant in the relevant market as delineated *supra*, in terms of the provision of section 19(4) of the Act. In the absence of dominance, there is no occasion for the Commission to look into the alleged abusive conduct.



18. In view of the foregoing, the Commission is of the considered opinion that no *prima facie* case of contravention of provision of section 4 of the Act is made out against the OP for causing an investigation into the matter, and therefore, the matter is ordered to be closed forthwith under Section 26(2) of the Act.

19. The Secretary is directed to communicate to the Informant accordingly.

**Sd/-
(Ravneet Kaur)
Chairperson**

**Sd/-
(Sangeeta Verma)
Member**

**Sd/-
(Bhagwant Singh Bishnoi)
Member**

**New Delhi
Date: 10.08.2023**