COMPETITION COMMISSION OF INDIA

Case No. 35 of 2024

In Re:

M/s KSD Zonne Energie LLP
Through its Designated Partner:
Mr. S. Kandasamy
Registered office 5/273, MG Layout,
Gandhinagar, Udumalpet,
Tiruppur (Dt.),
Tamil Nadu- 642154

Informant

And

Canara Bank Limited
Head Office: 112, J C Road,
Halsurpete, Nagarathpete,
Bengaluru, Karnataka- 560002

Opposite Party

CORAM

Ms. Ravneet Kaur
Chairperson

Mr. Anil Agrawal
Member

Ms. Sweta Kakkad
Member

Mr. Deepak Anurag
Member

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

1. The present Information has been filed by M/s KSD Zonne Energie LLP ('**Informant**') under Section 19(1)(a) of the Competition Act, 2002 ('**Act**') alleging contravention of the provisions of Sections 3 and 4 of the Act, by Canara Bank Limited ('**Opposite Party**'/'**OP**').

2. It is stated that the Informant is a Limited Liability Partnership Firm and involved in the process of manufacturing electricity, gas, steam, air conditioning supply and is primarily engaged in the electric power generation using solar energy.

3. It is stated that the OP is a bank constituted under the Banking Companies (Acquisitions & Transfer of Undertakings) Act, 1970 having its Head Office and relevant Branch Office at Bengaluru, Karnataka. OP is a Public Sector Undertaking ('**PSU**') under the Government of India and therefore falls under the definition of 'enterprise' as provided under Section 2(h) of the Act.

4. As per the Informant, the relevant market in this case, is the '*market for the provision of banking and loan services in India*'. OP has a substantial share in the relevant market and is the third largest nationalized bank which gives it a dominant position, enabling it to exercise influence over loan terms and rates without competitive pressures.

5. The Informant has stated that it had sought financial support for a 3 MW solar plant project under the Priority Sector Lending Guidelines from OP for the purpose of establishing solar power generation firm. The OP sanctioned a Term Loan dated 12.07.2016 of Rs. 13.25 crores but disbursed only Rs. 12.62 crores to the Informant. Despite initial assurance of favourable interest rates, the OP imposed an unexpectedly high interest rate of 16.20% instead of the promised 11.50%, later changing it to 14.20% without full transparency of facts and reasons. It is further stated that a concession in the interest rate from 14.45% p.a. to 11% was granted to the Informant by OP *vide* letter dated 06.03.2018 in compliance of Credit Approval Committee ('**CAC**') order dated 02.03.2018 with annual reset due on 03.09.2018 which was permitted as per order dated 24.06.2016 of General Manager at Central Office for Credit Approval Committee ('**GM-CO-CAC**').

6. It is stated that on 26.06.2020, during Covid-19 pandemic, the Informant availed GUARANTEED EMERGENCY CREDIT LINE (‘**GECL**’) 1.0 loan from the OP for an amount of Rs. 1.49 crores *vide* loan account no. 2342755000013 for a term of 4 years. It is stated that though the rate of interest mentioned in the sanction letter was 7.50% p.a., the OP arbitrarily raised and revised it to 9.25% p.a. for the purpose of sending demand notice under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (‘**SARFAESI Act**’). The Informant stated that the acts of OP show a case of unfair trade practice towards its consumer thereby violating Section 3 of the Act.

7. As per the Informant, through letter dated 11.01.2021, the OP retrospectively imposed an increased interest rate, demanding an additional Rs. 76,75,894/- as back interest from the Informant for the period 04.09.2018 to 16.07.2020, stating that 11% rate of interest was not applicable during the said period instead 14.45% was applicable. It is stated that the bank's branch office committed error to reset the interest rate which was acknowledged by the bank but still the Informant was being charged without his fault.

8. It is stated that the Informant was compelled to take further Working Capital Term Loan GECL 1.0 of Rs. 51,00,000/- for a term of 5 years on 05.05.2021 so as to fulfil the financial liabilities. It is stated that the rate of interest though mentioned in the sanction letter as 7.50% p.a. was arbitrarily raised and revised by the OP to 9.25% p.a. for the purpose of sending demand notice under SARFAESI Act. It is stated that this also shows unfair trade practice on the part of the OP towards its consumer thereby violating Section 3 of the Act.

9. As per the Information, on 22.07.2021, under the Resolution Framework 2.0 of the Reserve Bank of India (‘**RBI**’), the OP bank converted the differential interest and interest arrears accumulated due to sudden imposition of higher interest rate totalling Rs.111.67 Lakhs into a separate Funded Interest Term Loan (‘**FITL**’) at 11% rate of interest for a tenure of 5 years. This was accompanied by rescheduling the principal outstanding amount of Rs. 9.93 crores of Term Loan into a new loan with 10.95% floating rate of interest with an increased tenure of 2 years. It is alleged that by way of rescheduling the loan, the OP was actually charging interest on interest, charging

further interest on principal amount of the Term Loan without any adjustments towards the principal amount, further compounding the burden on the Informant.

10. It is stated that the Informant also availed additional GECL under the Resolution Framework 2.0 to an extent of 10% as on 29.02.2020 under Emergency Credit Line Guarantee Scheme 1.0 of National Credit Guarantee Trustee Company Ltd. of Rs. l,00,00,000/- for a term of 5 years at 7.50% p.a. interest rate *vide* separate loan account no. 1730000981060; so as to overcome the compelling resolution framework principal amount, interest rates and interest on interest rates to protect the business operations under Covid-19 induced economic crisis.

11. The Informant alleged that due to these anti-competitive agreements and subsequent arbitrary changes made in the interest rates by the OP, the business of the Informant was hampered which ultimately led to forceful exit of the Informant from the solar energy manufacturing market.

12. As per the Information, when the Informant attempted to transfer the loan to other banks offering lower rates, the OP obstructed the process by withholding collateral documents required by competing lenders. These tactics restricted the Informant's ability to secure fair market rates and suppressed competition by forcing reliance on the OP’s unfavourable terms.

13. It is stated that the OP under pressure and to retain the loan accounts of the Informant, lowered the rate of interest for a very short term and later charged the interest at a much higher interest rate thereby purposely causing damage, undue loss to the Informant and illegal gain to itself.

14. The OP without following due process under the SARFAESI Act, appointed a valuer on their own terms. It is stated that a good running solar plant is being undervalued by the OP’s valuer only for the sole purpose of selling easily in auction thereby denoting anti-competitive agreements between the valuers and the OP bank. It is further stated that the securitized properties are purposely brought under SARFAESI proceedings and then undervalued so as to erase competition in the market.

15. The Informant alleged that the OP’s actions demonstrate an abuse of market dominance through restrictive clauses, hidden fees and an inflated interest burden, culminating in Informant's inability to meet monthly EMIs and resulting in an Non-

Performing Asset ('**NPA**') designation. Further, the Informant also alleged that the OP had not followed the notifications and guidelines issued by various government agencies for Priority Sector Lending. All of these violate Sections 3 and 4 of the Act, by adversely affecting competition and abusing dominant position.

16. The Informant prays for the following interim relief under Section 33 of the Act:
    i. to direct the OP not to pursue legal remedies to demand and recover illegal claims against the Informant, till the pendency of the present Information before the Commission;
    ii. to pass any other order as deemed fit and proper by the Commission in view of the above-mentioned facts and circumstances.

17. The Informant prays from the Commission the following reliefs:
    i. to conduct an investigation under Section 26(1) of the Act against the OP;
    ii. to direct the OP to refund the amount of Rs. 78,03,095/- (interest re-paid of Rs. 36,54,267/- and principal re-paid of Rs. 41,48,828/- as on 10.10.2024) paid by the Informant against the FITL Account No. 173000079348, along with the same interest rate charged upon the Informant by the OP;
    iii. to direct the OP to waive the remaining FITL of Rs. 70,18,172/- of the Informant and close the loan account no. 173000079348;
    iv. to direct the OP to waive off the penal interest, penalty and other charges levied on the loans from the start and the amount so collected should be refunded back to the Informant, with the same interest charged, as the same is illegal and contrary to the provisions of law;
    v. to direct the OP to pay compensation of Rs. 20,00,00,000/- to the Informant, against all the unfair, arbitrary, illegal and anti-competitive practices undertaken by the OP, giving high mental agony, constant financial stress, spoiling the name and goodwill in the society of the Informant and his family;
    vi. to pass any other relief that the Commission may deem fit and proper in the interest of justice and fair competition.

18. The Commission considered the matter in its ordinary meeting held on 05.03.2025 and decided to pass an appropriate order in due course.

19. The Commission has perused the Information and material available on record. The Commission notes that the present case involves the sanctioning of loan by the OP, a public sector bank, which has substantial presence in the market, for the purpose of granting financial support to the Informant in respect of the commissioning of 3 MW solar plant project of the Informant.

20. The Commission notes that the Informant has made allegations against the OP of arbitrary increase in the rate of interest, charging hidden interest, demanding back interest, serving notice under SARFAESI Act, withholding original documents required by competitor banks for transfer of loan and entering into anti-competitive agreements with valuers. In this way, the OP allegedly violated Sections 3 and 4 of the Act, adversely affecting competition and abusing its dominant position.

21. The Commission notes that the primary allegation made by the Informant is the arbitrary increase in the rate of interest made by the OP in different loans taken from the OP, by taking advantage of its dominant position in the relevant market. The relevant market in this case is the '*market for the provision of banking and loan services in India.*' Canara bank has 6th rank amongst the largest public sector banks in India. It has 5.73% share in the banking sector in India. There are other banks like HDFC, SBI, PNB, Bank of Baroda, Indian Bank, ICICI Bank, Central Bank of India, Indian Overseas Bank *etc*. The existence of large number of players in the relevant market shows that the OP cannot operate independently in the market and cannot be considered to be in a position of dominance in the relevant market. Therefore, in the absence of dominance, the issue of abuse of dominance does not arise. Hence, the Commission notes that no case of contravention of provisions of Section 4 of the Act is made out against the OP.

22. With regard to allegation of arbitrary increase in the rate of interest, the Commission notes that banks tend to fix rates of interest on loans based on evaluation of various parameters like CIBIL score, the viability of the project, the rate of return, risk parameters *etc*. Such evaluation varies from bank to bank consequently affecting the final derived rate of interest, which is again highly variable and dependent on various benchmark rates announced by the RBI. In this connection, the Commission notes that the sanction letter dated 12.07.2016 for the Term Loan of Rs.13.25 crores issued to the Informant by the OP shows that the loan was sanctioned at an interest rate of

16.20% p.a. along with other terms and conditions. It was mentioned in the sanction letter that the *'interest stipulated is subject to review by Bank keeping in view DSCR, Debt/Equity, Margin, Repayment schedule, past experience etc. and also further changes as may be decided by the bank'* and that *'the rate of interest stipulated is subject to changes as decided by the bank from time to time'*. The Commission also notes that the rate of interest on the Term Loan was changed from 16.20% p.a. to 14.20% p.a. with annual reset on the request of Informant, by OP *vide* letter dated 14.09.2016 and was further revised from 14.20% p.a. to 11.00% p.a. with annual reset *vide* OP letter dated 06.03.2018. The above terms and conditions have been agreed upon by the Informant with the OP. Accordingly, the Commission finds that the allegation against the OP regarding arbitrary changes in the interest rates is without merit.

23. Further, with respect to the allegation about imposition of back interest charges of Rs. 76,75,894/- on the Informant, the Commission finds that the OP charged an interest rate of 11% from 04.09.2018 to 16.07.2020, but revised the same to 14.45%, retrospectively for the said period, on account of an error committed by it. It was specifically mentioned in the OP's letter dated 06.03.2018 that the rate of interest would be reset on annual basis. The Commission notes the same appears to be a dispute between the parties with respect to the agreed terms and conditions and does not fall under the purview of the Act.

24. The Informant has alleged existence of anti-competitive agreements between the valuers and the OP so as to purposely bring securitized properties under SARFAESI proceedings which are then undervalued to facilitate easy selling in auction. The Commission notes that any bank under the provisions of the SARFAESI Act, has a right of enforcement of its security interest if the borrower defaults in the repayment of loan or any instalment. The main aim of the SARFAESI Act is to enable banks and other financial institutions to auction properties to recover outstanding loan in the event of any default by the borrower. Further, the Informant has not provided any evidence in support of this allegation. Hence, no case of contravention of provisions of Section 3 of the Act is made out against the OP.

25. As regards the allegation that the OP withheld collateral documents required by competing lenders, the Commission notes that the bank keeps collateral documents to safeguard its advances by holding the documents until the loan is fully paid.

26. In light of the above, the Commission is of the view that no *prima facie* case of contravention of Sections 3 and 4 of the Act is made out in the present matter. The Commission directs that the matter be closed forthwith under Section 26(2) of the Act. Consequently, no case for grant for relief(s) as sought under Section 33 of the Act arises and the same is also rejected.

27. The Secretary is directed to communicate to the Informant, accordingly.

Sd/-
(Ravneet Kaur)
Chairperson

Sd/-
(Anil Agrawal)
Member

Sd/-
(Sweta Kakkad)
Member

Sd/-
(Deepak Anurag)
Member

New Delhi
Date: 19.05.2025