



Date of registration: 01.03.2024
Date of order : 21.08.2024

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION-I, VISAKHAPATNAM, AP**

**PRESENT: Smt.Dr.Gudla Tanuja, B.Com., M.A.(HRS), LL.M.,Ph.D (Law),
President**

**Sri Varri Krishna Murthy, M.A., M.B.A., A.I.I.I.,
(Associateship in Insurance Institute of India)
Male Member**

Saturday, the 21st day of August, 2024

C.C.No.77/2024

Between:

Dr.Vikas Pandey, S/o (late) Mohan Pandey, aged 44 years, National President of Consumer Rights Council Society, D.No.2-69, Rajiv Nagar, Visakhapatnam-530040.

... Complainant

Mr.G.Bala Murali Krishna, S/o G.Rajasekhara Rao, Hindu, aged 53 years, Managing Partner of Stepping Stones, residing at D.No.39-20-40/5, Kalinga Nagar, Yashodha Apartment, Madhavadhara, Visakhapatnam-530007.

... De-facto Complainant

And

- 1) Reliance Retail Limited, Reliance Digital, rep by its Managing Director/ Authorised Signatory, D.No.50-56-1, R.S.No.38/2, Resapuvanipalem, Visakhapatnam.
- 2) Bright Infocom, rep by its Managing Director/Authorised Signatory, 10-1-34, Shop No.7, Lakshmi Sridevi Plaza, B/s Sampath Vinayak Temple, Asilmetta, Visakhapatnam, Andhra Pradesh-530016.

... Opposite Parties

The case is came for hearing on 06.08.2024 before us for hearing in the presence of defacto Complainant and Sri M.Hari Mehar, Advocate for 1st Opposite Party and 2nd Opposite Party appeared in person and this Commission made the following:

ORDER

(Per Smt.Dr.Gudla Tanuja, President on behalf of the Bench)

1. The Complaint filed under Sec.35 of C.P.Act 2019 praying this Commission to direct the Opposite Parties to refund the cost of Laptop Rs.1,71,171/- with interest @ 12% from the date of purchase i.e. 25.04.2022 till the date of realization; to pay Rs.3,00,000/- to the Complainant for unfair trade practice; Rs.25,000/- towards costs with the following averments.
2. The Complainant organization authorised by defacto-Complainant Mr.G.Bala Murali Krishna, Managing Partner of Stepping Stones filed Complaint contending that the defacto-Complainant purchased ASUS Laptop Model No.AsusHQ008TS from the store of OP1 on 25.04.2022 paying a sum of

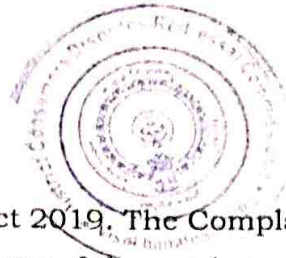
G. Tanuja

Rs.1,71,171/-. The products covers warranty and OP1 provided extended warranty till 25.04.2025 under the ResQ Care Plan contract No.600424707. The consideration was passed to the Opposite Party by way of cheque dt.25.04.2022, while so within the period of warranty i.e. 14.10.2023 Laptop Keyboard encountered a problem. Immediately the de-facto Complainant approached Reliance ResQ who advised him to handover the Laptop to OP2 who is authorized service centre for Reliance. As instructed the Laptop was handedover to OP2, but despite of attempts failed to resolve the issue keeping the Laptop for 10 days with them and returned back to the de-facto Complainant stating that they are not getting response from Reliance ResQ. Few days thereafter the de-facto Complainant again raised issue with Reliance ResQ and deposited the Laptop with OP2 for the second time. OP2 inturn advised the de-facto Complainant to wait for 15 to 20 days to carryout the repairs. After 20 days when the de-facto Complainant contacted the OP2, they replied that the problem was not rectified as they were not getting response from Reliance ResQ. The Laptop was with OP2 for more than 75 days, but there is no response and positive outcome, hence the defacto Complainant got issued Legal Notice to both the Ops on 18.12.2023. OP1 received the same but neither replied nor complied with the terms. Notice to OP2 was returned unserved as addressee not found, hence approached Commission for renderance of justice.

3. OP1 resisted the claim filing verified counter. The authorized representative of OP2 though appeared in person failed to file any Written version in terms stipulated under the Act, hence proceeded further as provided under the Act.

4. OP1 in its counter while denying the allegations made in the Complaint contended that the Complainant association has no locus-standi to file the present complaint and Dr.Vikas Pandey is not a consumer of OP1 and will not come under the definition of 'Consumer' as defined under Sec.7(i)&(ii) of C.P.Act. The de-facto Complainant Bala Muralikrishna was shown in his individual capacity and has not even signed in the Complaint copy served on the Opposite Party who is not the customer of OP1 and hence the Complaint is not maintainable under law. OP1 is dealer/retailer engaged in the business of sale of electronic devices manufactured by various companies. The disputed Laptop was manufactured by ASUS company and the OP1 holds only authority to sell the products as an agent. The name of the manufacturer is disclosed to the de-facto Complainant. The liability of 1st Opposite Party is protected under Sec.230

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of Indian Contract Act as well as Sec.86 of C.P.Act 2019. The Complaint is liable to be dismissed due to non-joinder of manufacturer of the product as a party to the litigation, hence prayed the Commission to dismiss the Complaint with exemplary costs.

5. During course of enquiry Dr.Vikas Pandey, National President of Complainant organization filed Evidence Affidavit and got marked Exs.A1 to A7. On behalf of OP1 Store Manager filed EA and got marked Ex.B1. The Complainant as well as contesting Opposite Party filed Written arguments reiterating their respective versions. Heard both sides.

6. The points that would arise for consideration are as follows:

1. Whether there is any deficiency in service on part of the Opposite parties?
2. Whether the Complainant is entitled to the reliefs prayed for?
3. To what relief?

Point No.1:

7. Perused the record. It is evident from Ex.A3 the firm Stepping Stones purchased Laptop ASUS Laptop Model No.AsusHQ008TS from the 1st OP on 25.4.2022. The product supplied to the firm Stepping Stones covers warranty upto 25.4.2025 as is evident from Ex.A4. The OP1 admitted the sale of the product to the de-facto Complainant under Ex.A3 so also the extended warranty upto 25.4.2025 under ResQ care plan contract No.600424707. The case of the Complainant is that the de-facto Complainant approached their organization requesting to initiate action against the Ops as they failed to render service to the product within the period of warranty specified under Ex.A4. The Complainant organization having served Legal Notice under Ex.A6 filed the present complaint as the Ops failed to comply with the requirements even after receipt of the Legal Notice as is evident from Ex.A5 Track report contending that the inaction on part of Ops tantamount to unfair trade practice and deficiency of service. The contesting Opposite Party resisted the complaint on the following grounds.

8. The Complainant organization will not come under the definition of Consumer under Sec.7(1)(ii) of C.P.Act and complaint does not bear the signature of de-facto Complainant. The Opposite Party is protected under

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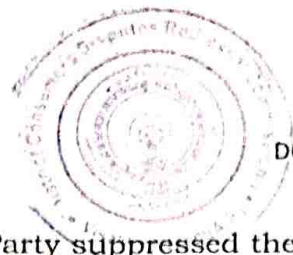
Sec.230 of Indian Contract Act as well as Sec.86 of C.P.Act. The C.P.Act 2019 defines the Complainant under section 5 as under :

(5) "complainant" means— (i) a consumer; or (ii) any voluntary consumer association registered under any law for the time being in force; or (iii) the Central Government or any State Government; or (iv) the Central Authority; or (v) one or more consumers, where there are numerous consumers having the same interest; or (vi) in case of death of a consumer, his legal heir or legal representative; or (vii) in case of a consumer being a minor, his parent or legal guardian;

9. So also the word 'consumer' under Sec.5(2) manifesting makes it clear that any voluntary consumer association registered under any law for the time being in force can be recognized as a Complainant and in the instant case the Complainant organization got marked Certificate of Registration under Ex.A1 and authorization letter under Ex.A2 to prove the locus standi of the Complainant organization to represent the de-facto Complainant, therefore the objection raised by Opposite Party holds no water.

10. The next contention of the Opposite Party is that they are protected under Sec.230 of Indian Contract Act as well as Sec.86 of C.P.Act contending that the relationship between the manufacturer of the Laptop is agent and principal and when the Complainant was made known the name of the principal, the Opposite Parties cannot be held liable for the manufacturing defects. It is pertinent to mention here that the Complainant attributing deficiency in service against 1st Opposite Party who delivered the Laptop receiving valuable consideration and the said Laptop is covered with warranty of one year and the contested Opposite Party gave extended warranty upto 25.04.2025 as is evident from Ex.A4 when an accusation was made against Opposite Party attributing deficiency, it is bounden duty of Opposite Party to establish that there is no fault or imperfection in their services producing cogent evidence. Except producing the authorization letter Ex.B1 the agreement purported to have been entered with the so called manufacturer of Laptop was not even filed so as to enable the Commission to appreciate facts relying on the case law referred in their counter. The contesting Opposite Party has not even filed the copy of the warranty issued by Opposite Party under Renew ResQ Care plan to know the terms and conditions, whether the extended warranty was given by manufacturer or the Opposite Party. Failure on part of Opposite Party to produce the information having in their custody

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leads to irresistible conclusion that the Opposite Party suppressed the material facts before the Hon'ble Commission. Even to claim benefit under Sec.86 of C.P.Act the terms and conditions of the warranty plays vital role to come to a conclusion whether the warranty was given OP1 independently or given by the manufacturer. Be that as it may, the Laptop that was supplied to the Complainant is a defective one and inspite of keeping the Laptop for a considerable period in their custody failed to carryout the repairs disregarding the terms of the warranty or replaced it with new Laptop of the same configuration since the defect was surfaced during the period of extended warranty given by the contesting Opposite Party as is evident from Ex.A4. Needless to say failure to honour the terms of warranty tantamount to deficiency of service. Accordingly this point is answered.

Point Nos.2 & 3:

11. The Opposite Party categorically admitted in their counter that the Laptop is in their custody till the Complainant approached the Hon'ble Commission and inspite of keeping the product with them they could not carryout the repairs and denied the complaint to reap the benefits though the defects was surfaced during the continuance of extended warranty. Hence the Commission in the preceding paragraph observed that the services of Opposite Party are deficient in nature, as such the Complainant is entitled for either replacement or refund as prayed for.

12. Complainant purchased the Laptop paying substantial amount with a fond hope that it will cater his needs, which includes additional amount to cover the extended warranty. Indisputably the Laptop was lying with the Opposite Parties months together on the pretext of carryingout the repairs, due to which the Complainant would have experienced lot of physical strain besides mental agony for which the Complainant deserves reasonable amount as compensation besides costs of litigation.

Accordingly, these points are answered in favour of the Complainant.

13. In the result the Complaint is allowed in part directing the Opposite Parties to refund an amount of Rs.1,71,171/- (Rupees One lakh seventy one thousand one hundred and seventy one only) with interest @ 6% from 25.04.2022 till the date of realization or replace the product with same model and configuration besides Rs.10,000/- (Rupees Ten thousand only) towards compensation and Rs.5,000/- (Rupees Five thousand only) towards costs to the Complainant.

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Time for compliance one month from the date of receipt of this Order.

Dictated to the Shorthand Writer, transcribed by him, corrected and pronounced by us in the open Commission on this the 21st August, 2024.


Male Member


President

APPENDIX OF EVIDENCE

Exhibits marked for the Complainant:

Doc.No.	Date	Description	Remarks
Ex.A1	28.03.2023	Certificate of Registration registered under the A.P. Societies Registration Act, 2001	Photostat copy
Ex.A2	11.12.2023	Authorization letter from the de-facto Complainant to the Complainant	Original
Ex.A3	25.04.2022	Tax Invoice issued by OP1	Original
Ex.A4	25.04.2022	Warranty status under ResQ Plan	Downloaded copy
Ex.A5	27.12.2023	Track report of the service of Legal Notice to OP1	Downloaded copy
Ex.A6	18.12.2024	Legal Notice issued to Opposite Parties	Office copy
Ex.A7	02.06.2014	Details of de-facto Complainant as the Managing Partner of his company Stepping Stones	Photostat copy

Exhibits marked for the Opposite Parties:

Doc.No.	Date	Description	Remarks
Ex.B1	28.03.2024	Letter of authorization	Attested copy


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President