

State Consumer Disputes Redressal Commission  
Manish Kumar Goyal vs Dada Motors on 21 April, 2017  
STATE CONSUMER DISPUTES REDRESSAL COMMISSION,  
PUNJAB, CHANDIGARH.

First Appeal No.777 of 2016

Date of institution : 10.10.2016  
Reserved on : 10.04.2017  
Date of decision : 21.04.2017

Manish Kumar Goyal son of Raghunandan Goyal, resident of 612-L,  
Model Town Jalandhar at present resident of Flat No.201, Syndicate  
Flats, Manipal, Karnataka.

.....Appellant-Complainant

Versus

1.

Dada Motors, G.T. Road, Opp. Haveli, District Jalandhar through its Manager/Incharge etc.

2. M/s Nissan Motor Private Limited, ASV Ramana Towers, 52, Ventaknaryana Road, T/Nagar, Chennai, Tamil Nadu-600 017 through its MD/Director/Incharge etc. ....Respondents-Opposite Parties First Appeal against the order dated 25.07.2016 of the District Consumer Disputes Redressal Forum, Jalandhar.

Quorum:-

Hon'ble Mr. Justice Paramjeet Singh Dhaliwal, President Shri Harcharan Singh Guram, Member Present:-

For the appellant : Ms. Manjri Joshi, Advocate. For respondent No.1: Shri Inder Mohan Pal Singh, Law Officer. For respondent No.2: Ex parte.

JUSTICE PARAMJEET SINGH DHALI WAL, PRESIDENT:

The instant First Appeal has been preferred by Manish Kumar Goyal, appellant/complainant, against the impugned order dated 25/07/2016 passed by the District Consumer Dispute Redressal Forum, Jalandhar (in short, "District Forum") whereby the complaint filed by him under Section 12 of the Consumer Protection Act, 1986, has been dismissed.

2. The parties hereinafter to be referred as they are arrayed in the complaint before the District Forum.

3. The detailed facts are already mentioned in the order of District Forum, however relevant facts for disposal of this appeal, in brief, are to the effect that complainant purchased a car Datsun Go. Petrol bearing temporary registration No. PB-08-BV-Temp 8488, Engine No. 7419808 Chasis No. MOHZBAADoE3002992 colour white from opposite party No.1, vide invoice dated 08/04/2014 for a sum of Rs.4,20,890/-. The complainant has averred that opposite party No.1 also charged Rs.5,000/- under the head of other charges as logistic charges. The said vehicle was delivered to the complainant on 12/05/2014, vide delivery challan dated 12/05/2014. The complainant approached opposite party No.1 for refund of the said amount, but it refused to refund. Therefore, complaint was filed for directing the opposite parties to refund the amount with 12% interest per annum till realisation and to pay compensation of Rs.1,05,000/- and award litigation cost of Rs.10,000/.

4. Upon notice opposite party No. 1 appeared and filed reply, in which it has been averred that the complaint is absolutely false, frivolous and vexatious and has been filed to harass the answering opposite party without any fault on its part. The Government has not issued any directions regarding the logistic charges of the new vehicles sold by the dealers. It is denied that complainant has charged extra amount from the complainant rather it is the cost of transportation of the vehicle from the place of manufacturer to the place of dealer.

5. In spite of notice opposite party No. 2 failed to appear and was proceeded against ex parte.

6. The District Forum afforded opportunities to both the sides to lead their respective evidence and after appreciating the evidence on record passed the impugned order dated 25/07/2016 whereby the complaint has been dismissed. Hence this appeal.

7. We have heard the learned counsel for the appellant/complainant and Law Officer for opposite party No.1 as opposite party No.2 did not put in appearance despite service and was proceeded against ex parte. We have perused the record with their valuable assistance.

8. The learned counsel for the complainant vehemently contended that there is no provision in the Motor Vehicles Act, 1988, to charge overhead charges such as handling and logistic charges. The complainant was never made aware that in addition to the price of the car quoted by opposite party No.1, he would have to pay logistic charges and other charges. The learned counsel for the complainant referred to invoice exhibit C-1 as well as exhibit C-7. The overhead charges in the shape of logistic charges have been illegally charged by the car dealer i.e. opposite party No.1.

9. Law Officer for opposite party No.1 vehemently contended that dealer is entitled to charge logistic charges of the new vehicle sold to the complainant. Complainant has filed a false and frivolous complaint. Opposite party No.1 has charged Rs.5,000/-, as cost of transportation of the vehicle from the manufacturing factory to the dealer destination. He referred to the judgment of Hon'ble Delhi High Court in C. Rajaram, Advocate and another versus GNCT of Delhi and others 2012 SCC Online Del 2258 and judgment of Hon'ble Supreme Court dated 05/01/2017, whereby the SLP too has been dismissed.

10. We have given our thoughtful consideration to the contentions raised by the learned counsel for the appellant/complainant and Law Officer of opposite party No.1.

11. So far as the judgment in C Rajaram's case (supra) is concerned, it does not decide the issue of law; rather in the said judgment it is observed that said question can be decided on a case to case basis and no general direction can be issued in public interest litigation. The SLP preferred against the judgment of Division Bench was also dismissed.

12. Now coming to the merit of the this case, admittedly, in the invoice dated 08/04/2014 Ex.C-7 amount of Rs.5,000/- has been charged as logistic charges besides the other amounts for insurance, registration and extended warranty. Opposite party No.1, a car dealer, has charged Rs.5,000/- as logistic charges without any basis. Even in the reply, it has not been mentioned how they have calculated the transportation of vehicle charges called as logistic charges. It has also not been mentioned in the reply from which place the delivery was taken by the dealer from the manufacturer. The manufacturers park their vehicles in yards which they hire at various places in the country so that delivery of the vehicle to the dealers can be made from nearest places immediately. There are no averments in the reply nor any document has been annexed with the reply to show that the dealer, opposite party No.1, had paid any logistics charges for the vehicle in question. The reply is completely vague; rather it is silent about material aspects. The charges in the invoice look like Government levy. It is the duty of the dealer to inform and explain to the consumer that in addition to the price of the vehicle quoted, he will have to pay the other charges like handling, loading, unloading and logistics charges. It is not the stand of opposite party No.1 in its reply that consumer was informed and explained about the additional charges. The Law Officer appearing on behalf of opposite party No.1 failed to show any provisions of the Motor Vehicles Act, 1988 and the Rules framed thereunder and of Sales of Goods Act that such charges could be recovered from the buyer. The dealer cannot charge logistic charges unless is authorised under the provisions of law. Charging of logistic charges in an arbitrary manner clearly amounts to adoption of unfair trade practice and the charges have been charged in an unauthorized and illegal manner rather it can be said that overcharging is nothing but hidden charges.

13. As a sequel to the above discussion, we partly allow this appeal and set aside the impugned order dated 25/07/2016 passed by the District Forum. Opposite party No.1 is directed to pay Rs.5,000/- to the complainant along with interest at the rate of 12% per annum from the date of payment i.e. 12/05/2014 till realisation. Complainant would also be entitled to compensation of Rs.5,000/- and litigation costs in the District Forum as well as in this Commission, which are assessed as Rs.5,000/-. This order shall be complied with by the opposite parties within 45 days from the date of receipt of certified copy of this order.

14. The appeal could not be decided within the statutory period due to heavy pendency of court cases.

(JUSTICE PARAMJEET SINGH DHALIWAL) PRESIDENT (HARCHARAN SINGH GURAM)  
MEMBER April 21, 2017 Bansal