

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION GURGAON-122001.

Consumer Complaint No.211 of 2023

Date of Institution: 14.03.2023

Date of Decision: 08.04.2024

Bhagat Singh, aged about 50 years son of Shri Ganga Singh, resident of House No.977, Sector-15, Part-II, Gurugram.

.....Complainant

Versus

1. Bata, having its office at Shop No.22, DLF City, Center Mehrauli Road, Gurugram (Haryana) through its proprietor/authorized person/signatory.
2. Bata India Limited, having its office at 27B, Camac Street, 1st Floor, Kolkata-700016 through its authorized person/signatory/Director.

Also at:

Ground Floor, Building No.8, Tower-A, DLF Cyber City, Phase-II, Gurugram (Haryana).

.....Opposite parties

Complaint under Section 35 of Consumer Protection Act,2019

**BEFORE: SHRI SANJEEV JINDAL, PRESIDENT.
 MS. JYOTI SIWACH, MEMBER.
 MS. KHUSHWINDER KAUR, MEMBER.**

Present: Complainant in person.
 Shri Mohammad Wasey, AR of the OPs.

ORDER KHUSHWINDER KAUR, MEMBER.

Shorn off unnecessary details, briefly stated, it is the case of the complainant that he purchased one pair Bata shoes for a sum of Rs.3199/- with discount from the OP on 31.08.2021 vide Retail invoice No.CM3056220004305 (Copy of said invoice annexed as **Annexure-A**), but, within 15 days of the purchase, the subject shoes started showing cracks, got faded on the rest of the portion and their

sole also got torn out. Thus, the complainant contacted the OPs immediately on customer care No.1800/419/2282 on dated 24.11.2022 vide Ticket ID No.432411, pursuant to which, the OP No.2 also sent an email in this regard to the complainant but the problems could not be resolved nor did the OPs changed the subject purchased shoes of the complainant (Copy of emails annexed as **Annexure -B and C** respectively). Hence, this complaint with the prayer for issuing directions to the opposite parties to refund the amount of Rs.3199/- along-with interest @ 24% p.a. from the date of purchase till its actual realization, coupled with further prayer to pay an amount of Rs.3,00,000/- as compensation for causing harassment and mental agony along-with Rs.1,00,000/- as litigation expenses. Any other relief which this Commission deemed fit, has also been prayed for.

2. At the very outset of the discussion, this Court has the least hesitation to observe that the aforesaid submissions/contentions/assertions made by the complainant stand duly establishes from the accurate, brief and concise documentary evidence placed on the record of this file by the complainant in the form of documents i.e. **Ex.C-1** i.e. copy of Tax Invoice, **Ex.C-2 & Ex.C-3** i.e. the copies of email sent by the Customer Service Team of the OP No.2 to the complainant and **Ex.C-4 to Ex.C-6** i.e. are the photographs of the subject shoes, as every credence has to be accorded to the aforesaid documentary evidence placed on the record of this file by the complainant in the absence of any evidence worth its name to the contrary from the OPs' side.

As stated above, since the OPs have failed to place on the record of this file any cogent evidence worth its name in order to shatter the creditability of the contents of the aforesaid documents placed on the record of this file by the

complainant to substantiate his claim, so, the contents of the aforesaid documents go unrebutted, and, as such, this Court does not find any reasons to disbelieve the same. That being so, the deficiency in service on the part of the OPs is established beyond any shadow of doubt.

3. In this regard, it is also pertinent to mention here that during the course of the proceedings of the present complaint, on 11.05.2023, the authorized representative of the OPs, Shri Mohammad Wasey had stated at bar that without prejudice to their rights, the OPs-respondents were ready and willing to refund the amount of Rs.3199/- i.e. the cost of subject purchased Bata shoes to put an end of the present litigation, but, the complainant-Bhagat Singh, who was present in person in the Court on that date, was not willing to accept the aforesaid offer on the plea that it was a meagre amount and that he was also entitled to compensation along-with litigation expenses for having been unnecessary dragged into the present litigation on account of the deficiency in service on the part of the OPs. In this connection, the complainant also refused the last and final offer made by the A.R. of the OPs to settle the present controversy on the payment of at the most Rs.7000/- to the complainant.

Thus, this offer of settlement on the part of the OPs through their authorized representative, also, "suo-moto", impliedly denotes that there did occur deficiency in service on the part of the OPs in rejecting the subject claim of the complainant. That being so, the complaint of the complainant is hereby accepted with costs.

4. Therefore, after considering all the facts and circumstances of the case, we direct the opposite parties to refund the amount of Rs.3199/- i.e. the cost of

defective shoes to the complainant along-with interest @ 9 % p.a. from the date of purchase i.e. w.e.f. 31.08.2021 till realization. The complainant is also hereby held entitled to compensation for causing harassment and mental agony to the tune of Rs.15,000/-as well as litigation expenses of Rs.11,000/-. The opposite party is directed to pay the aforesaid amount within 45 days from the date of uploading of this order after the expiry of 24 hours (one day) therefrom, failing which the amount will attract interest @ 12% per annum, for the same period, till actual realization.

4. If the order of this Commission is not complied with, then the complainant shall also be entitled to file the execution petition under Section 71(1) of the Consumer Protection Act, 2019 and in that eventuality, the OP may also be held liable for prosecution under Section 72 of the said act which envisages punishment with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than Rs.25,000/-, but which may extend to Rs.1,00,000/-, or with both. The copy of the order be supplied to the parties free of cost as per the rules. The Order be promptly uploaded on the website of this Commission. File be consigned to the record room, after due compliance.

Announced.
08.04.2024

(Jyoti Siwach)
Member

(Khushwinder Kaur)
Member

(Sanjeev Jindal)
President,
District Consumer Disputes
Redressal Commission, Gurgaon