

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION  
HISAR.

Consumer Complaint No. : 547/2021

Date of Institution: 12.11.2021

Date of Decision : 06.10.2023

Kapil Mittal son of Sh. Ram Avtar Mittal, age 30 holding Aadhar card No.999600651020,  
resident of House No. D-10, New Model Town Extension, Hisar.

....Complainant

Versus

1. M/s. Havells India Limited, through its Director/Chief Executive Officer, QRG Towers, 2D, Sector 126, Expressway, Noida-201304 Uttar Pradesh.
2. Vivek Singh, Proprietor M/s Smart Deals Hisar, Kaimri Road Near OBC Bank, Opposite Soni Burn Hospital, Hisar-125001

....Respondents

Complaint under Section 35 of the Consumer Protection Act.

**Before: SHRI JAGDEEP SINGH, PRESIDENT  
MRS RAJNI GOYAT, MEMBER  
DR. AMITA AGARWAL, MEMBER**

Present: Complainant in person.

Sh. Harsh Jindal, Proxy Counsel for Sh.Rahul Sidher, counsel for respondent No.1

Sh.Ajay Lohan, counsel for respondents No. 2

**ORDER BY:-**

**SHRI JAGDEEP SINGH, PRESIDENT**

Complainant has filed this complaint under Section 35 of the Consumer Protection Act, against the respondents/ Opposite Parties (hereinafter to be referred as OPs) with the prayer that the Ops be directed to replace the defected item i.e. Havells Air Oven DIGI with

a new working piece and compensation on account of mental agony and harassment with other relief etc.

2. The brief facts of the case are that the complainant had purchased one HAVELLS AIR OVEN DIGI, 1500W from Op No.2 having GSTIN 06EHIPS4689Q1Z3 for Rs. 9,000/- vide bill No. 116 dated 15.02.2021 with two years warranty. Further submitted that the complainant used the Air Oven in accordance with the instruction given in the user manual of the company but in spite of that just within one month of purchase, said product started emitting burning smell as well as the Air Oven stopped baking food items. The complainant lodged a complaint on 18.3.2021 to Havells customer care cell through telephonic call at their customer care contact No.8045771313 but none of their representative visited complainant's residence resolve the problem. Therefore, complainant again and again contacted their Customer Care cell for number of times but in vain. However, inspite of 13 telephonic complaints, the Op No.1 failed to provide complainant any service against his complaints. Further submitted that the representative of the OP No. 1 visited the premises of complainant but he merely took the photographs of the products but did not provide any solution. The complainant sent an Email to their Customer Care cell at their email address but no response was received to complainant e-mail dated 23.04.2021. Complainant further sent again and again Email-reminders on 27.04.2021 & 13.05.2021 but again the company failed to provide after sale service. Further submitted that the Air oven purchased by the complainant is well within warrantee period and the Ops on account of terms of warrantee were bound to

repair/rectify/replace the same. There is deficiency in service on the part of the Ops and prayed that the Ops be directed to replace the same with a new one.

3. On receiving notice, the OP No.1 appeared and filed written version wherein various and taking preliminary objections regarding maintainability etc. and further submitted that OP Company seeks leave of this Hon'ble Commission to once again check the product of the complainant and submit its job sheet/ Report before this Commission. In case if after checking the product any issue is found in the product, OP Company will repair it or replace it. Even otherwise as a special case and without prejudice to its rights, OP Company is ready to replace the product of the complainant in order to resolve the issue of the complainant. Reply on merits it is submitted that answering OP has never denied service to the complainant and is always ready and willing to provide its services subject to warranty terms and conditions. Further submitted that out of all the calls, 11 calls were cancelled and closed as the complainant did not give any appointment for visit. Two calls dated 09-07-21 and 19-07-21 were attended by technician of company who found no issue with the product hence the call was closed. It is submitted that this Hon'ble Commission may either get the product checked as per Section 38 of the Consumer Protection Act 2019 or by a third party technician as it is very crucial to decide the case. If after such inspection any such issue is found in the product, OP Company will repair or replace the product. Even otherwise as a special case and without prejudice to its rights, OP Company is ready to replace the product of the complainant in order to resolve the issue of the complainant. There is no

deficiency in service on the part of the Ops and prayed that the complaint of the complainant may kindly be dismissed with cost.

On the other hand, written statement not filed on behalf of OP No.2 and made a statement on 20.9.2022 that written statement already filed on behalf of op No.1 may be read evidence on behalf of the Op No.2.

4. Counsel for the complainant in his arguments reiterated the facts as mentioned in the complaint. Ld. Counsel for the Ops in his arguments reiterated the version as mentioned in the written statement. With the kind assistance of counsel for the parties, the entire record of file including documentary evidence has also been properly perused and examined.

5. Arguments heard. Counsel for the Op no.1 contended that no doubt, Op no.1 received 13 complaints from complainant but 11 calls were cancelled and closed as the complainant did not give any appointment for visit. Further stated that on 09.07.2021 & 19.07.2021 calls were attended by technician of company who found no issue with the product. Hence, the call was closed and further stated that it is very necessary to get inspect/check the product from third party expert verify the condition of the product and if after such inspection, any issue is found in product, the Op company will repair or replace the product.

6. In order to prove his case, the complainant placed on file Ex.C1 Tax Invoice Book issued by OP no.2, Ex.C2 Warranty Card of the Company which is issued by OP

no.2 on behalf of OP no.1, Ex.C3 to Ex.C5 email communication between the parties to prove that complainant complained repeatedly to Ops for resolving of his genuine problem but the Op did not resolve the issue and even not replied the emails and complaints of the complainant. Counsel for the Op no.1 admits that without going on merit and without produced its right, Op company is ready to replace the product in order to resolve the issue of the complainant. But complainant contended that it is not a good policy of the OPs. Ops were well aware regarding manufacturing defect of the oven and they did not attend the complaint of the complainant from 18.03.2021 to till filing of this complaint. Counsel for the OP no.1 did not produce any record or closing of the complaint. The Op no.1 did not produce any record when and which employee gave message that complainant was not giving an appointment for visit. The Op did not placed on file job-sheet issued by technician in which they disclosed that product was having no issue. The Op did not produce any evidence even after availing so many opportunities. From 09.11.2022 up to 06.06.2023, on 14.03.2023 the last opportunity was granted to OP with the condition that the evidence of Op shall be deemed to be closed on next date of hearing. Even then, on 06.06.2023 the Op did not tender any affidavit or documentary evidence in support of his written statement. OP no.2 never offered for replacement of defective product during the complaints to OPs and even they did not reply the emails of the complainant.

It is clear at this stage, the Op no.1 is ready to replace the product in question with new one but Op failed to prove that he placed such offer to the complainant

before filing of complaint i.e. at the time of calls and emails to the OPs. We are of the considered view the justice would be met, if OP no.1 is directed to replace the product with new one and also directed to pay compensation for harassment and litigation expenses. The complainant succeeds to prove his complaint. The complainant failed to prove any deficiency in service on the part of OP no.2, hence, OP no.2 is discharged from any liability.

7. Consequently this Commission is of the considered view that there is merit in the complaint and the same is hereby accepted with direction to Op no.1 to replace the Havells Air Oven with new same make or higher make or refund the amount of Oven i.e. Rs.9,000/- with 9% interest per annum from the date of filing of the complaint i.e. 12.11.2021 till its realization to the complainant. Op no.1 is further burdened to pay a sum of Rs.4000/- as compensation on account of deficiency in service as well as litigation expenses to the complainant within 45 days from the date of passing of this order, otherwise the amount shall carry an interest @ 12% per annum for the default period i.e. after 45 days.

If the order of this Commission is not complied with, then the aggrieved party shall be entitled to file execution petition under section 71 of the Consumer Protection Act, 2019 and to file an application/complaint under Section 72 of Consumer Protection Act, 2019. In that eventuality, whoever fails to comply with the order may also be liable for prosecution under Section 72 of the said Act which envisages

punishment of imprisonment which may extend to three years or fine upto Rs.one lac or with both. Copy of this order be sent to the parties free of costs, as per rules, and this order be promptly uploaded on the website of this Commission. File be consigned to the record room after due compliance.

ANNOUNCED IN OPEN COMMISSION

ON: 06.10.2023

(Jagdeep Singh),  
President,  
Distt. Consumer Disputes  
Redressal Commission, Hisar.

(Rajni Goyat )  
Member

(Dr. Amita Agarwal)  
Member

Typed by: Shilpa, Steno-typist