

DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION, LUDHIANA.

Complaint No: 62 dated 13.02.2023.
decision: 29.09.2023.

Date of

Shivam Grover son of Sh. Subhash Chander Grover, R/o. H. No.1949/113, St. No.1/5, Guru Gobind Singh Nagar, Shimlapuri, Ludhiana.

Complainant

Versus

1. M/s. Cell Cafe, Shop No.8, SCF 23, BRS Nagar, Near Orient Cinema, Ludhiana, through its Prop/Partner/authorized signatory.
2. Prop/Partner/authorized signatory M/s. Cell Cafe, Shop No.8, SCF 23, BRS Nagar, Near Orient Cinema, LudhianaOpposite parties

Complaint Under Section 12 of the Consumer Protection Act, 1986.**QUORUM:**

SH. SANJEEV BATRA, PRESIDENT

SH. JASWINDER SINGH, MEMBER

MS. MONIKA BHAGAT, MEMBER

COUNSEL FOR THE PARTIES:

For complainant : Sh. Shivam Grover with counsel Sh. H.K. Dhariwal, Advocate.

For OPs : Exparte.

ORDER**PER JASWINDER SINGH, MEMBER**

1. Shorn of unnecessary details, the facts of the complaint are that the complainant purchased mobile phone make Apple I-Phone XR 64GB having IMEI No.356458106821465 on 31.07.2020 from the opposite parties vide invoice No.B7284 dated 31.07.2020 for a sum of Rs.51,000/-. According to the complainant, the opposite parties charged more than the MRP on the mobile phone as MRP of the mobile was of Rs.49,900/- but the complainant paid a cash amount of Rs.51,000/- to the opposite parties. With intention to change the mobile phone, the complainant approached concerned dealer to exchange the phone by paying more amount and on asking of bill/invoice, the complainant provided bill to the said dealer, from where the complainant came to know about charging of more amount than MRP by the opposite parties. On visiting the shop of the opposite parties, their employees after checking the entry of the bill, transpired that the opposite parties have with intention to grab huge amount from Govt. also, have issued two bills of one product i.e. Bill No.B7284 dated

31.07.2020 of cash amount and another bill No.B7273 dated 30.07.2020 of card sale, but IMEI of mobile phone was same in both bills. The complainant further stated that the act and conduct of the opposite parties amounts to deficiency in service and unfair trade practice due to which he suffered great loss, injury, physical and mental harassment for which he is entitled to compensation of Rs.5,00,000/-. The complainant issued a legal notice dated 17.01.2023 upon the opposite parties but to no avail. Hence this complaint, whereby the complainant has prayed for issuing direction to the opposite parties to pay the amount of claim of Rs.1100/- along with interest as well as compensation of Rs.5,00,000/- and litigation expenses of Rs.33,000/-.

2. Upon notice, none turned up on behalf of the opposite parties despite service of summons through Mr. Arshdeep Singh, Sales Manager and as such, the opposite parties were proceeded against ex parte vide order dated 15.05.2023.

3. In support of his claim, the complainant tendered his affidavit Ex. CA in which he reiterated the allegations and the claim of compensation as stated in the complaint. The complainant also tendered documents Ex. C1 is the invoice No.B7284 dated 31.07.2020, Ex. C2 is the copy of invoice No.B7283 dated 30.07.2020, Ex. C3 is the copy of photograph of box of mobile, Ex. C4 is the copy of legal notice dated 17.01.2023, Ex. C5 are the postal receipts and closed the evidence.

4. We have heard the ex parte arguments of the counsel for the parties and also gone through the complaint, affidavit and annexed documents produced on record by the complainant.

5. The complainant has invoked the jurisdiction of this Commission by raising a consumer dispute with regard to charging price of mobile Apple I-Phone XR 64GB in excess of MRP and has filed the present complaint. It is pertinent to mention here that the Consumer Protection Act, 2019 has been enacted to protect the interest of the consumer. As per its statement of objects and reason placed before the Parliament the Act has been enacted to promote and protect the rights of consumer as envisaged in Section 2(9) of the Consumer Protection Act which is reproduced as under:-

“Consumer Rights S. 2(9)

(9) “consumer rights” includes,-

- (i) the right to be protected against the marketing of goods, products or services which are hazardous to life and property;*
- (ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;*
- (iii) the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;*
- (iv) the right to be heard and to be assured that consumer’s interest will receive due consideration at appropriate fora;*
- (v) the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and*
- (vi) the right to consumer awareness.*

6. MRP denotes ‘Maximum Retail Price’ which is the maximum amount a retailer can charge from a buyer including taxes. The retailer can charge below the MRP but cannot cross threshold of the amount specified in MRP even by a single paisa. The word “Complaint” has been defined by Section 2(6) of Consumer Protection Act, 2019 which means that any allegation in writing made by the complainant for obtaining any relief provided

by or under this Act. Its clause (iv) is relevant for adjudication of the matter in controversy which is reproduced as under:-

(iv) a trader or a service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price in excess of the price -

- a. fixed by or under any law for the time being in force; or*
- b. displayed on the goods or any package containing such goods; or*
- c. displayed on the price list exhibited by him by or under any law for the time being in force; or*
- d. agreed between the parties.*

7. The complainant has placed on record the copies of two retail invoices i.e. invoice No.B7284 dated 31.07.2020 Ex. C1 and invoice No.B7283 dated 30.07.2020 Ex. C2 whereby the product i.e. I-Phone XR 64GB with same IMEI No.356458106821465 has been sold to the complainant for a sum of Rs.51,000/-. Further, Ex. C3 is the photograph of the box of the product produced by the complainant. A careful examination of Ex. C3 reveals that the maximum retail price (MRP) of the mobile is written as Rs.49,900/- inclusive of all taxes. Therefore, as per the price printed on Ex. C3, the opposite parties were supposed to charge Rs.49,900/- from the complainant but the opposite parties have charged an amount of Rs.1100/- in excess of the said MRP. Even the opposite parties did not care to reply the legal notice dated 17.01.2-023 Ex. C4.

8. Further Section 2(47) of the Consumer Protection Act defines 'unfair trade practice' which means trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, adopts any unfair method or unfair or deceptive practice including any of the following practices, the relevant portion of clause (vii) and (viii) is as under:-

(vii) not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed.

(viii) refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days.

From the above said facts, it is clear that the opposite parties have not issued a bill of goods sold in manner prescribed under law which amounts to unfair trade practice. The opposite parties were required to issue bill in a transparent and legal manner. Since the complainant was charged Rs.51,000/- i.e. more than the MRP printed on the box of the product and as such, In this manner, the opposite parties have charged Rs.1100/- excess from the complainant and it amounts to deficiency of service and unfair trade practice on the part of the opposite parties. In view of the facts and circumstances, it would be just and proper if the opposite parties are directed to refund the amount of Rs.1100/- along with composite compensation of Rs.15,000/-.

8. As a result of above discussion, the complaint is allowed exparte in terms that the opposite parties will refund Rs.1100/- with interest @8% per annum from the date of filing of this complaint till the date of actual payment. The opposite parties shall further pay a composite compensation of Rs.15,000/- (Rupees Fifteen Thousand only) to the complainant. Compliance of the order be made within 30 days from the date of receipt of copy of order. Copies of order be supplied to parties free of costs as per rules. File be indexed and consigned to record room.

9. Due to huge pendency of cases, the complaint could not be decided within statutory period.

(Monika Bhagat)
Member

(Jaswinder Singh)
President

(Sanjeev Batra)

Member

Announced in Open Commission.

Dated:29.09.2023.

Gobind Ram.