

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION – I,  
HYDERABAD

PRESENT

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT  
HON'BLE MRS. C. LAKSHMI PRASANNA, MEMBER  
HON'BLE MR.B.RAJA REDDY, MEMBER

Tuesday, the 21<sup>st</sup> day of November, 2023

Consumer Case No.100 OF 2023

Between:-

Dr.Ponna Srinivas S/o. Late Laxminarayana,  
Aged about: 65 Years, Govt.Pensioner, Indian Inhabitant,  
Residing at B-501, Srigdha Kalakrithi Apartments,  
Street No.11, Tarnaka, Secunderabad – 500 017,  
M.No. 99498 92414,  
Mail ID: [ponna1232@icloud.com](mailto:ponna1232@icloud.com)

...Complainant

AND

1. Amazon Hyderabad,  
Jayabheri Orange Towers,  
Jairaj, Financial District,  
Survey No. 116 & 117, Road No.02,  
Nanakramguda – 500 008,  
Mail Id: [ofm@amazon.in](mailto:ofm@amazon.in), [buyer-returns@amazon.in](mailto:buyer-returns@amazon.in),  
[A3N6Q3XW81C7LZ@amazon.in](mailto:A3N6Q3XW81C7LZ@amazon.in).  
Rep. by Account Specialist.
2. Appario Retail Private Limited,  
Parle Godowns, Laxmi Nagar,  
Habsiguda, Hyderabad – 500 013,  
Having its registered office at Hyderabad  
Mail id: [ankit.p@frontizo.in](mailto:ankit.p@frontizo.in); [appario@blubirch.com](mailto:appario@blubirch.com); ....Opposite Parties

|                                     |   |                    |
|-------------------------------------|---|--------------------|
| Counsel for the Complainant         | : | Party-in-Person    |
| Counsel for the Opposite Party No.1 | : | Rajan Sri Krishnan |
| Counsel for the Opposite Party No.2 | : | D.Madhavi          |

O R D E R

(By Hon'ble Mr.B.Raja Reddy, Member  
on Behalf of the Bench)

1. The present complaint is filed by the Complainant under Section 35 of the Consumer Protection Act, 2019 alleging deficiency of service and unfair trade practice on the part of the Opposite Parties with a prayer:
  - a) To pay Rs. 75,000/- (Rupees Seventy Five Thousand Only) as compensation;
  - b) To pay Rs. 3,999/- (Rupees Three Thousand Nine Hundred and Ninety Nine Only) towards costs; and

- c) Pass such other and further orders as this Hon'ble Forum may deem fit and proper in the interests of justice.
2. The brief facts of the case are that, as per averments of the Complaint, the Complainant purchased a Boat Smart Watch bearing Model No. Xtend/Xtend RTL Smart Watch with Alexa Built in 1.69 from Amazon Company limited on 25.10.2022 for a sum of Rs. 3,499/- (Rupees Three Thousand Four Hundred and Ninety Nine Only) and the same was delivered to the Complainant. It is averred that on website the smart watch was shown as Sandy Cream color but on delivery it was in Pink Color, hence, the Complainant return was escalated on 29.10.2022 along with watch, inside packing, box and cover through which it was delivered. The pickup person took a snap of the return watch and told the Complainant as refund will be processed. It is further averred that the Complainant made calls to customer care as he did not received any update from company. On 07.11.2022, a lady in customer care blamed the Complainant as he returned a different smart watch and further stated as that is the reason for non-refund. It is submitted that thereafter the Complainant sent several e-mails but the Opposite Parties did not tried to resolve the issue; moreover they stated that the Complainant has cheated them by not returning the original item. Hence, in view of the above, the Complainant suffered loss, harassment, mental agony and damaged the conduct of the Complainant. Hence, having no alternative, the Complainant filed the present complaint alleging deficiency of service and unfair trade practice on the part of the Opposite Parties.
3. Upon serving of notice from this Commission, the Opposite Party No.1 filed its written version; wherein, the Opposite Party No.1 pleaded that as the correct entity operating the e-commerce market place is Amazon Seller Services Private Limited. It is admitted by the Opposite Party No.1 that the Complainant placed an Order for "Boat Xtend/Xtend RTL Smart Watch" with Alexa Built-in 1.69 HD Display, multiple watch faces, stress monitor heart and SPO2 monitoring, 14 sports model, 5 ATM & 7 days battery (Sandy Cream) vide Order ID No. 407-6698248-4721939 and the Appario Retail Private Limited i.e. the Opposite Party No.2 is the third party seller having its place of business at Habsiguda-Hyderabad. It is stated that the tax invoice was issued by the Opposite Party No.2 not by the Opposite Party No.1.

It is further stated that the payment made to the nodel account but not to the account of the Opposite Party No.1 and moreover, the Opposite Party No.1 acts as an intermediary. It is further stated that as the product was delivered to the Complainant in an intact condition on 25.10.2022 after securing the one time password. It is averred that upon receipt of grievance of complaint, the opposite party no.1 proactively acted and the watch was picked-up from the complainant on 29.10.2022. It is further averred that as the complainant has returned an incorrect / wrong product instead of the original delivered product, therefore, the refund against the return of the product could not be processed and prayed to dismiss the complaint against the Opposite Party No.1.

- 3.1. Whereas the notice from the Commission was served to Opposite Party No.2 on 11.05.2023. Despite service of notice, the Opposite Party No.2 failed to file written version as such the Opposite Party No.2 was *set-exparte* vide docket proceedings dated: 24.07.2023.
4. During the course of enquiry, the Complainant filed his evidence affidavit reiterating the averments of his complaint and in support of his claim, he marked the documents as Exhibits A1 to A4 and reported no further evidence as such his evidence was concluded;whereas on behalf of Opposite Party No.1 Mr.Rahul Narayanan filed evidence affidavit and got marked its documents as Exhibits B1 to B5. The Complainant filed memo on 05.10.2023 to treat his averments of evidence affidavit as written arguments whereas the Opposite Party No.1 filed its written arguments and thereafter, the matter is reserved for orders.
5. Based on the facts and material brought on record, and written arguments of the Opposite Party No.1, the following points came up for consideration:
  - a) Whether the Complainant made out the case of deficiency of service and unfair trade practice on the part of the Opposite Parties No.1 & 2?
  - b) Whether the Complainant is entitled for the reliefs prayed for?
  - c) If so, as to what relief?

5.1. Point No.a:

The undisputed fact of the case is that the Complainant has placed an order Boat Smart Watch bearing Model No. Xtend/Xtend RTL Smart watch with Alexa Built-in, 1.69 for a Sum of Rs. 3,499/- (Rupees Three Thousand Four Hundred and Ninety Nine Only) on [www.amazon.in](http://www.amazon.in) on 25.10.2022 vide Invoice No. FHYE-255593 Order ID 407-6698248-4721939 and the tax invoice was issued by Opposite Party No.2 and the said watch was delivered on 25.10.2022. As per Ex.A1 i.e. tax invoice, the color of the watch is sandy cream but it was a different color when delivered than what was displayed on Opposite Party No.1 e-commerce market place.

5.1.1. It is also undisputed fact that the Complainant escalated an issue of return of item on 29.10.2022 and it is admitted by both the parties that the pickup person collected the product on 29.10.2022. As per Exhibit A3, it is clear that the item picked up on the way back and the refund will be initiated as soon as the product reaches the Opposite Party.

5.1.2. As per Amazon return policy, Ex.B5 the return will be processed only

- It is determined that the product was not damaged.
- If the product is not different from what was shipped.
- If the product is returned in original condition (with brand's/manufacturer's box, MRP tag intact, user manual, warranty and all the accessories therein).

That in the case in hand, the return was processed and the item was picked up from the Complainant. At that time, the pickup person verified the item with the details which is available with him and after his satisfaction only, the person authorized picked up the return, otherwise the item will not move if he is not satisfied with the details available with him. As per Ex.A3, it is seen as *"Picked up and on the way back"* and it is mentioned as *"move item is on the way, refund will be initiated as soon as it reaches us"*.

5.1.3. As seen from Ex.A4 the Complainant is a professor escalated the issue and handed over to the collecting person. The Complainant sent several e-mails to refund the amount but he received reply e-mail stating as *"the amazon i.e. the Opposite Party No.1 cannot issue refund until they receive correct item, in other-words that the Complainant received the item and returned another item to get refund from the Opposite Party"*, which is nothing but causing damage to the character of Complainant leads to profound mental distress.

It is amply evident from Ex.A4 that the Opposite Party No.1 failed to refund the amount after receiving the item.

5.1.4. That the Opposite Party No.1 tried to throw the blame on the Opposite Party No.2 by saying that the Opposite Party No.1 is an intermediary. The definition of Intermediaries is as

*“intermediaries would include all entities that collect monies received from customers for payment to merchants using any electronic/online payment made for goods and services availed by them and subsequently facilitate the transport of these monies to the merchants in final settlement of the obligations of the paying customers”.*

Here the item was returned. It is the duty of Opposite Parties to refund the amount but the Opposite Party No.1 alleged that *as it is informed by concerned team that the wrong product was returned in the place of an original product* is nothing but deficiency of service. Hence, the Complainant made a case of deficiency of service and unfair trade practice against the Opposite Parties as such this point is answered in favour of the Complainant.

5.2. Point No.b:

That the Opposite Party No.2 failed to file written version and lead evidence. The Opposite Party No.1 being a reputed organization cannot deny to refund to the returned product. In view of the above findings, the complainant is entitled for refund of the amount of Rs. 3,499/- (Rupees Three Thousand Four Hundred and Ninety Nine Only) which has been paid towards purchase of Boat Xtend/Xtend RTL Smart Watch with Alexa Built in 1.69 HD Display, multiple watch faces, stress monitor, heart and SPO2 monitoring, 14 sports modes vide order number 407-6698248-4721939 along with reasonable compensation for the mental agony and costs of the litigation. Accordingly, this point is also answered in favour of the Complainant.

5.3. Point No.3:

In the result, the Complaint is allowed in part directing the Opposite Parties No. 1 & 2 jointly and severally liable to:

- i. Refund an amount of Rs. 3,499/- (Rupees Three Thousand Four Hundred and Ninety Nine Only) paid by the Complainant for purchasing the smart watch;
- ii. Pay Rs. 25,000/- (Rupees Twenty Five Thousand Only) towards compensation for the mental agony and the sufferings caused to the Complainant with the acts of the Opposite Parties;

iii. Pay Costs of Rs. 5,000/- (Rupees Five Thousand Only).

Time for compliance is 45 days from the date of receipt of this order failing which the above mentioned amount under Sr.No. (i) shall attract an additional interest @ 3% p.a. from the date of non-compliance of the order till the date of realization.

Dictated to stenographer, transcribed and typed by him, pronounced by us on this the 21<sup>st</sup> day of November, 2023.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

Ponna Srinivas S/o. Late Laxminarayana Complainant (PW1).

WITNESS EXAMINED FOR THE OPPOSITE PARTY No.1:

Rahul Narayanan S/o. Mr.M.Narayanan Rep. by the Authorized Signatory of the Opposite Party No.1 (DW1).

WITNESS EXAMINED FOR THE OPPOSITE PARTY No.2:

NIL

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of invoice dated: 25.10.2022.
- Ex.A2 Screenshot of billing address (Amazon).
- Ex.A3 Screenshot of return pickup status (Amazon).
- Ex.A4 Complainant mails sent and received replies from Amazon (11 mails).

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY No.1:

- Ex.B1 True Copy of the Board Resolution dated: 21.02.2023 executed in favour of Mr.Rahul Narayanan.
- Ex.B2 True Copy of the invoice dated: 25.10.2022 issued by the Seller.
- Ex.B3 Copy of the RBI directions for Nodal Accounts dated: 24.11.2009.
- Ex.B4 Copy of Conditions of Use.
- Ex.B5 Copy of the return and replacement policy.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY No.2:

NIL

MEMBER

MEMBER

PRESIDENT

Read by:  
Compared by:  
DSK