

CC/116/2023

Date of filing: 28.04.2023  
Date of Disposal: 29.11.2023

**BEFORE THE BANGALORE URBAN II ADDITIONAL  
DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION,  
SHANTHINAGAR, BANGALORE - 560027**

**DATED THIS THE 29<sup>th</sup> DAY OF NOVEMBER 2023**

**CONSUMER COMPLAINT NO.116/2023**

**PRESENT:**

**SRI VIJAYKUMAR.M.PAWALE, B.A., LL.B., (Sp1), ... PRESIDENT**  
**SRI B.DEVARAJU, B.A.L., LL.B., PGDCLP., (NLSIU) ... MEMBER**  
**SMT.V.ANURADHA, B.A., LL.B., ... MEMBER**

**COMPLAINANT:**

Mr.Jeevan Kumar,  
60/63, 16<sup>th</sup> Main 17<sup>th</sup> Cross,  
BTM Layout 2<sup>nd</sup> Stage,  
Bangalore - 560076.

(Complainant In-person)

V/s

**OPPOSITE PARTY:**

Reliance Retail Limited,  
SS Plaza, 74/2, Outer Ring Road,  
BTM Layout,  
Bangalore - 560068.


(OP is Rep by Adv. Sri.Mohan Malge)

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Author **SMT.V.ANURADHA, MEMBER**

**// JUDGMENT //**


1. This complaint has been filed by the Complainant under Section 35 of the Consumer Protection Act, 2019 (hereinafter referred as the Act) seeking direction against the opposite party to direct to provide proper solution

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regarding the complainant's above mentioned issues by refund of Rs.83,700/- and to provide Rs.30,000/- as a compensation to the complainant for the deficiency in service and mental harassment and agony.

2. The case of the complainant in brief is as under;

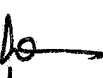
The complainant has ordered a product of Analog watch with Push-Button Claps worth Rs.83,700/- from the opposite party on 06.01.2023. The product which was delivered to the complainant was wrong one which the complainant had not ordered. Further the complainant requested to return of the product and refund of the amount on 10.01.2023. Thereafter the opposite party concern accepted the request after successful verification of the product and had promised the complainant to pick up the product on 18.01.2023 and refund will be on 20.01.2023. Thereafter the opposite party has cancelled the request of the complainant on 23.01.2023 and also stated the ground that the item has been shipped from the opposite party side was correct item. Thereafter the complainant has made several communications but the opposite party has not bothered to respond the request of the complainant. Due to the act of the opposite party the complainant got issued legal notice on 08.02.2023 calling upon the opposite party to solve the issue, the opposite party neither replied nor complied the request made by the complainant in the legal notice. Hence, this complaint.

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3. Despite service of notice, the opposite party entered appearance but failed to file version within 45 days, hence the version of the opposite party filed after expiry of prescribed period for filing written version from the date of receipt of notice of the complaint is rejected.
4. The complainant filed affidavit by way of evidence and relies on 6 documents and got marked Ex.P1 to P6. Heard arguments of complainant. We perused the records.
5. The following points do arise for our consideration;
  1. **Whether the complainant has proved that there is deficiency of service on the part of the opposite party?**
  2. **Whether the complainant is entitled to the relief claimed in the complaint?**
  3. **What order?**
6. Our findings on the above points are as under;
  1. **POINT NO.1** : In the Affirmative;
  2. **POINT NO.2** : Partly in the Affirmative;
  3. **POINT NO.3**: As per final order for the following;

**REASONS**

7. **POINTS NO.1 & 2**: It is the undisputed fact that the complainant has ordered Analogue watch with push button Clasp 2600145, Black, AS, 464403533001 by paying Rs.83,700/- from the opposite party through online as per Ex.P2 on 07.01.2023. Ex.P3 is the copy of online description of the Analog watch. The complainant had not received the correct product which he had

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ordered, wherefore the complainant had requested the opposite party to take back the watch and requested for the refund of amount through E-mail dated 16.02.2023 as per Ex.P4. The complainant has sent several pictures of the product after unboxing the product. In the beginning the opposite party also agreed to pick up the product and refund the amount as per Ex.P5. Thereafter the opposite party has rejected the request of pick up the product and refund the amount as per Ex.P6.

8. Upon service of notice, the opposite party appeared before this Commission but failed to file the version within 45 days, hence version of opposite party was rejected.
9. We carefully perused the pleadings, documentary evidence stated supra and affidavit evidence produced by the complainant. The opposite party has failed to deliver the product which the complainant had ordered. Thereafter the opposite party has not complied with the request to take back the wrong product from the complainant and also failed to refund the amount of the complainant though the complainant made several request. Hence the complainant got issued legal notice on 08.02.2023 to the opposite party, but the opposite party has not bothered to reply to the legal notice nor complied the request made in the legal notice. This act of the opposite party amounts to deficiency in service and unfair trade practice. The complainant has proved the deficiency of service on the part of the opposite

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party, hence we are of the opinion that the opposite party is liable to take back the product from the complainant and refund the full amount of Rs.83,700/- to the complainant. The opposite party is also liable to pay Rs.2,000/- as a compensation and Rs.1,000/- as cost of litigation expenses to the complainant. Hence we answer Point No.1 in the affirmative and point No.2 partly in the affirmative.

10. **POINT NO. 3:** In view of the discussion referred above, the complaint against opposite party requires to be allowed in part. The opposite party is liable refund Rs.83,700/- to the complainant by taking back the wrongly delivered product from the complainant. The opposite party is also liable to pay Rs.2,000/- as compensation and Rs.1,000/- as cost of litigation expenses to the complainant. In the result, We proceed to pass the following;

**ORDER**

The complaint is allowed in part.

The opposite party is directed to pay Rs.83,700/- (Rupees Eighty Three Thousand Seven Hundred Only) to the complainant by taking back the wrongly delivered product from the complainant.

The opposite party is also directed to pay Rs.2,000/- (Rupees Two Thousand Only) towards compensation and Rs.1,000/-

*V. A. Saha*  
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(Rupees One Thousand Only) towards cost of litigation expenses to the complainant.

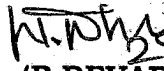
The opposite party shall comply with the above order within 45 days from this date.


Supply free copy of this order to the parties.

Return spare copies of the pleading and evidence to the complainant.

(Dictated to the Steno, typed by her, transcript corrected, Revised and then pronounced by the open Commission on 29<sup>th</sup> day of NOVEMBER 2023).

V.A.   
29/11/2023  
(V. ANURADHA)  
MEMBER

N.   
29/11/22  
(B. DEVARAJU)  
MEMBER

  
29/11/2023.  
(VIJAYKUMAR.M.PAWALE)  
PRESIDENT

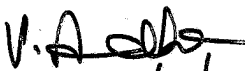
**//ANNEXURE//**

**Witness examined for the complainant's side:**

Mr. Jeevan Kumar, who being the complainant has filed his affidavit.

**List of documents filed by the complainant:**

1. Ex.P1: Certificate under Section 65 B of Evidence Act,
2. Ex.P2: Copy of the Tax Invoice dated 07.01.2022,
3. Ex.P3: Copies of the Photos/pictures (2 in Nos.),
4. Ex.P4: Bunch of e-mail communications,
5. Ex.P5: Screen shot copy of the text message,
6. Ex.P6: Copy of the E-mail dated 24.01.2023.

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- NIL -

**List of documents filed by the Opposite Party:**

- NIL -

*V. Anuradha*  
29/11/2023  
(V. ANURADHA)  
MEMBER

*B. Devaraju*  
29/11/22  
(B. DEVARAJU)  
MEMBER

*Vijaykumar M. Pawale*  
29/11/2023  
(VIJAYKUMAR.M.PAWALE)  
PRESIDENT

