

**BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION KANGRA AT DHARAMSHALA, H.P.**

Date of Institution: 26.06.2023
Date of final hearing: 31.10.2023
Date of Pronouncement: 29.11.2023

Consumer Complaint No.- 181/2023

IN THE MATTER OF

Kshitij Korla S/o Rakesh Korla resident of Village Bharoon Post Office
Bindraban Tehsil Palampur, District Kangra H.P.

(Through: Ms. Kirti Sharma, Advocate)

.....Complainant

Versus

1. Shopsizo.com, 6/8 Jasmine Street Vatika City, Sohna Road, Sector 49
Gurgaon, Haryana 122018 through its Proprietor.
2. Nimbus Post Pvt. Ltd. through its Proprietor R/o 1st Floor Vipul Plaza
Suncity Sector 54, Gurugram, Haryana 122002.

(Opposite parties already ex-parte)

.....Opposite Parties

CORAM:

President: Mr. Hemanshu Mishra
Members: Ms. Arti Sood & Sh. Narayan Thakur

Present:- Complainant in person.
Opposite parties already ex-parte.

PER: Mr. Hemanshu Mishra, President:-

ORDER

The complainant has filed instant complaint seeking
direction to the opposite party(s) as under:-

A) Direct the opposite party to refund the total amount of Rs.2,048
paid against the order of Maia™ Heat & Massage Therapy Pad -
(Period Cramps & Any Pains) which was credited to OP No.1.

B) Direct the opposite party to pay Rs.50,000/ towards mental agony, harassment and damages.

C) Direct the opposite party to pay pendente lite and future interest at the rate of 18% p.a. from the date of filing to the date of payment.

D) To pass an award of Rs. 10,000/- in favour of the complainant and against the opposite party towards the litigation charges.

2. Brief facts giving rise to the present complaint are that on 05/06/2023 the complainant had ordered a "Maia™ TM Heat & Massage therapy pad-(Period cramps & any pain)" by an advertisement flashed/shown on his Insta ID/handle from Shopsizo's official Instagram handle redirecting to its official website Shopsizo.com.. It is pleaded that the Complainant on being redirected to the Shopsizo's official website placed an order for "Maia™ Heat & Massage therapy pad - (Period cramps & any pain)." The order was placed immediately with the Opposite party No.1 and a message to that effect was received by the Complainant in his WhatsApp mobile no. by Opposite party no.2 (NimbusPost's) official WhatsApp handle/number. The order was delivered to the Complainant on 09/06/23 by the Blue Dart Courier Services and a message to that effect of "Delivery" has been sent to Complainant's mobile number. After opening the box of product and seeing what he had received, the Complainant was flabbergasted to see a toy version of the Maia™ Heat & Massage Therapy Pad - (Period Cramps & Any Pains). The complainant tried and searched for their official website to either file a refund or replacement but their website had neither any option to refund nor any option to replace. It is further pleaded that complainant had been scammed by the Opposite party No.1, as they had played unfair trade practice by not delivering the true and correct product as was shown in their website and the Opposite party No.2 has been deficient in rendering their services as when called upon to disclose the seller ID or information the

complainant was told zilch. Alleging deficiency in the service on the part of opposite party(s), the complainant has filed the present complaint.

3. Notices were sent to opposite party(s) by this Commission, which were duly served, but none appeared on behalf of opposite party(s) and opposite party(s) were proceeded ex-parte.

4. The complainant was called upon to produce evidence. In order to prove his complaint, complainant has filed affidavit Ext.CW-1 along with documents Annexures C-1 to C-7.

5. On the other hand, opposite party despite of valid service did not bother to contest the complaint and opted to remain ex-parte.

6. We have heard learned counsel for the complainant and have gone through the case file minutely.

7. Opposite party despite of valid service did not bother to contest the complaint and opted to remain ex-parte. Thus, evidence adduced by the complainant remains unrebutted and unchallenged. There is no reason to disbelieve the cogent and convincing evidence adduced by the complainant.

8. The complainant after opening the product box noticed that the complainant has received a toy version of "Maia™ TM Heat & Massage therapy pad-(Period cramps & any pain)". The product shown in the advertisement in the official website of opposite party No.1 was not the same. There was no option of refund or replace in the website of opposite party No.1. Even number mentioned in the contact us section is of some police officer, who had also reported the matter to the cyber crime department. Even the opposite party No.2 though has booked the product, but failed to provide the details of opposite party No.1 to the complainant.

9. The consumer protection e-commerce rule 2020 cast duties upon e-commerce entities whereas as per rule 4 sub rule 2 it is stated that every e-commerce entity shall provide the following information in a clear and accessible manner on its platform, displayed prominently to its users, namely:- legal name of the e-commerce entity; principal geographic address of its headquarters and all branches; name and details of its website; and contact details like e-mail address, fax, landline and mobile numbers of customer care as well as of grievance officer. As per rule 4(3) no e-commerce entity shall adopt any unfair trade practice, whether in the course of business on its platform or otherwise. As per rule 4 sub rule 10 every e-commerce entity shall effect all payments towards accepted refund requests of the consumers as prescribed by the RBI or any other competent authority under any law for the time being in force, within a reasonable period of time, or as prescribed under applicable laws.

10. As the opposite party No.1 has flouted these rules, we observe that the opposite party No.1 has clearly committed an unfair trade practice.

11. This unfair trade practice is required to be discontinued. In order to discontinue such unfair trade practice committed by the opposite party No.1 as well as opposite party No.2, we direct the opposite party No.1 to file an affidavit wherein they have to disclose in clear words the corrective measures proposed to be taken by them by adding refund and replace options in their website, contact number of the grievance cell be mentioned correctly. The opposite party No.2 in their affidavit is also required to explain their endeavor about ensuring mentioning of correct address of the product seller/distributor/manufacture or sender of the product at the time of booking of product, so that complainant can correspond with the e-commerce entities or product seller/distributor/manufacture.

12. The complainant fairly and squarely mentioned that the

opposite parties have refunded an amount of Rs.4,048/- to the complainant during the pendency of the complaint. As the ordered product was not sent to the complainant and there was no option of refund and replace and contact number was mentioned wrongly, the opposite parties are required to compensate the complainant but in view of some refund the compensation is quantified as Rs.20,000/- only.

13. Accordingly, the complaint is allowed and opposite parties are jointly & severally also directed to pay compensation to the complainant to the tune of Rs.20,000/-, besides litigation cost quantified as Rs.7,500/-.

14. Applications pending, if any, stand disposed of in terms of the aforesaid judgment.

15. A copy of this judgment be provided to all the parties free of cost as mandated by the Consumer Protection Act, 1986/2019. The judgment be uploaded forthwith on the website of the Commission for the perusal of the parties.

16. File be consigned to record room along with a copy of this Judgment.

(Hemanshu Mishra)
President

(Narayan Thakur)
Member

(Arti Sood)
Member