

that the complainant with bona fide intentions gave each and every detail of the accident and loss incurred, documents as asked by the said surveyor was provided without any delay. Thereafter, the surveyor has submitted his report and assessed the claim of complainant as NIL on the grounds that there is no closing stock shown in the income tax return for the FY 2018-19.

The claim of insurance cannot be repudiated on mere on the ground that the stocks in ITR FY 2018-19 is NIL. The complainant has also submitted the ITRs of the last three years and other sale and purchase records including the GST Returns corroborates the factum of the stocks and the OP cannot choose a single document on a hyper technical point just to evade their liability. Filing of NIL stock in the ITR 2018-19 was a human error and the regulation of Income Tax Act allow to revise the such errors and the complainant has revised the ITR FY 2018-19 which has acknowledged the said revised ITR and there is no ground to repudiate the claim of the complaint. Hence, is the present consumer complaint.

2. OPs contested the consumer complaint, filed their reply and stated that the complainant while casting trading account as on 9.9.2019 took opening of Rs.36,93,680/, however, in the previous ITR for FY 2018-19, the complainant had shown the stock as on 31.3.2019 to be NIL. When confronted with the question as to from where did this figure of Rs.36,93,680/- come, the complainant had no answer. It is also submitted that the surveyor has only mentioned that the list of goods as provided by the complainant were the goods that were made available to the surveyor while physical counting. However, the complainant be put to strict proof to prove as to whether these goods were the stock lying on the date of incident or have been procured later and presented as damaged stock in order to fleece money from the complainant. It is denied that the complainant could not approach OP office for clarification. It is also submitted that the value of Rs.19,99,196/- as reached upon by the surveyor was only on the physical count basis and was the value arrived at regarding the goods which were provided to the surveyor as on the date of survey. The complainant has miserably failed to prove that the goods which were provided to the surveyor for assessment were the stock lying on the date of incident. On the contrary, it is clearly evident from the ITR that there was no stock lying as on the date of incident. The amount of Rs.36,14,240/- as claimed by the complainant is wrong and denied. The complainant revised ITR FY 2018-19 has been acknowledged. The GST returns of the complainant also do not tally with the claims of the complainant. Denying all other allegations made in the complaint a prayer for dismissal of the complaint has been made.
3. Rejoinder was filed and averments made in the consumer complaint were reiterated.
4. Parties led evidence by way of affidavits and documents.
5. We have heard the learned counsel for the parties and gone through the record of the case.
6. The main case of the complainant is that inspite of having proper fire insurance policy cover OPs did not settle its claim submitted after the fire incident in the premises of the complainant.
7. We have perused the surveyor report Annexure C-7, placed on record by the complainant. The surveyor has assessed estimated loss of Rs.22,09,312.17/- and net liability of the insurer towards the damaged stock have been worked out to Rs.8,79,855/-. The surveyor report has covered all the critical points. Thus, we do not find any reason to interfere with the report of surveyor with regard to assessment of damage caused by fire incident being correct. The Hon'ble National Commission in **New India Assurance Company Ltd. Vs. Rabindra Narayan I (2010) CPJ 80 (NC)** held as under:-

“The Report submitted by the Surveyor is an important piece of evidence and has to be given due weight and relied upon until and unless it is proved by some cogent and reliable evidence that the Report submitted could not be relied upon.”

8. The OPs have failed to rebut the surveyor report by way of any cogent documentary evidence, except by way of IT reports carrying the Nil closing stock reports, but the same has been reflected in revised IT reports. Hence, we are constrained to believe the version of the surveyor to be correct to the extent of assessment of loss as he has gone through the minutest details of damage on the ground. The principle of law laid down in the aforesaid judgment is squarely applicable in the instant case. Thus, the complaint is partly allowed.
9. In view of the above discussion, the present consumer complaint succeeds and the same is accordingly partly allowed. OPs are directed as under :-

- i. to pay an amount of ₹8,79,855/- to the complainant alongwith interest @ 9% per annum from the date of filing of this complaint till realization.
 - ii. to pay an amount of ₹30,000/- to the complainant as compensation for causing mental agony and harassment to it;
 - iii. to pay ₹15,000/- to the complainant as costs of litigation.
10. This order be complied with by the OPs within thirty days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iii) above.
11. Certified copies of this order be sent to the parties free of charge. The file be consigned.

18/07/2023

Ls

**Sd/-
[Pawanjit Singh]
President**

**Sd/-
[Surjeet Kaur]
Member**

**Sd/-
[Suresh Kumar Sardana]
Member**