

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**CONSUMER CASE NO. 55 OF 2018**

1. PRAVEEN KUMAR MITTAL

R/o 47/G-4, Jawahar Quarter,

Meerut - 250001

Uttar Pradesh

.....Complainant(s)

Versus

1. PORSCHE INDIA PVT. LTD. & ORS.

(Through Its Director) Porsche Centre Mumbai,  
Jubilant Performance Cars Pvt. Ltd., A2 Cnergy,  
Standard Mill Appa Saheb Marathe Marg,  
Prabhadevi,

Mumbai - 400025

Maharashtra

2. .

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3. .

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.....Opp.Party(s)

**BEFORE:**

**HON'BLE MR. JUSTICE RAM SURAT RAM**

**MAURYA,PRESIDING MEMBER**

**HON'BLE DR. INDER JIT SINGH, MEMBER**

**For the** Mr. Vivek Narayan Sharma, Advocate with  
**Complainant :** Ms. Mahima Bhardwaj, Advocate

**For the Opp.Party : NEMO**

**Dated : 24 April 2023**

**ORDER**

**DR.INDER JIT SINGH, MEMBER**

The present Consumer Complaint (CC) has been filed by the Complainants against Opposite Parties (OPs) as detailed above, inter alia praying for directions to the OPs to:-

to provide Complainant with a new car of similar make in lieu of Complainant's Car; or in the alternative, refund Rs.80,00,000/- plus other costs incurred by Complainant in buying the subject Car.

ii. grant damages of Rs.1,00,00,000/- against acute mental and psychological sufferings, unfair trade practices, deficiency in service.

2. Notice was issued to the OPs on 20.04.2018. Parties filed Written Statement/Reply, Evidence by way of Affidavit, Rejoinder and Written Arguments/Synopsis etc. as per details given in the Table at Annexure-A.

3. Initially, the complaint was filed against four OPs:-

1. Porsche India Pvt. Ltd., Maharashtra, India
2. Porsche A.G., Stuttgart
3. Volkswagen AG, Germany
4. Porsche Center, Gurgaon, India

Vide order dated 09.10.2018, OP-2 & 3, who are the manufacturers and sellers of original vehicle in question through their 100% Indian subsidiary Companies- OP-1 & 4, were deleted from the array of parties. Present complaint is now against OP-1 & OP-4, renumbered as OP-2. Consequent to deletion of OP-3 & 4.

4. It is averred/stated in the Complaint that: -

i. On 28.02.2014, complainant purchased a Porche Cayenne Diesel Car with Chassis No. WP1ZCD922DLA38925 (hereinafter referred to as Car) for Rs.80.00 lakh from Porsche Centre, Gurgaon (OP-2). Complainant contends that during the finalization of the model of the car, he was told by the agents/sales executive of OP-1 & 2 that the manufacture year/model of the car is 2014 and that the warranty of the car shall be extended for a further period of 10 years, in case renewal is done before expiry of initial warranty. OP-2 issued sale invoice, sale certificate, temporary certificate of registration dated

28.02.2014, Form 22 for initial compliance of Pollution Standards and Insurance to the Complainant.

- ii. During August 2016, the complainant decided to sell the car. One of the purchaser/buyer informed the complainant after checking through his sources the complainant's car manufacturing year is 2013 and not 2014. Thereafter, the complainant approached some certified resale agents in October 2016 and was appraised by resale agents about mechanism to know the year of manufacture from the Chassis number/vehicle identification number of the car. When checked with decoding of 17 digits chassis No., the year of manufacture turned out to be 2013.
- iii. Complainant contends that the OPs have illegally and with intent to cheat fabricated all documents pertaining to the car, with mention of wrong year of manufacturing. Such conduct of OPs amounts to unfair trade practice and is against consumer rights. To verify whether documents supplied to the complainant are authentic, complainant, on 16.02.2017, obtained copies of various documents like, State Transport Vehicle particulars, Form 20 Application for Registration, Form 21 Sale Certificate, Temporary Certificate of Registration, Form 22 etc. and these documents pertaining to Complainant's car show manufacturing year as 2014. Complainant further contends that car was purchased in the month of February 2014, however, the OP provided wrong information to the RTO for registration of car and cheated the Complainant by selling him car manufactured in the year 2013 at the price of car manufactured in the year 2014. A legal notice was sent by Complainant to OPs on 28.03.2017.

5. The OP-2 (earlier OP-4) in their written statement/reply stated that:

- i. officials of OP-2 showed the Complainant the demanded car and also informed that the car is of 2013 manufacture year, to which the complainant agreed and thereafter purchased the same for Rs.80.00 Lakhs vide Invoice dated 28.02.2014. The said car being 2013 year manufacturing, the Complainant was given a discount of Rs.11.90 Lakh over the total price. The officials of OP-2 offered the Complainant an extended warranty for the said car but the Complainant stated that he will purchase the extended warranty once his two years ' warranty expires.

- ii. OP-2 issued a letter dated 28.02.2014 and Form 21 where the description of the car is given and on all these documents, year of manufacturing of car is 2013.
  - iii. OP-2 told complainant to get the car registered by OP-2, but complainant told the officials of OP-2 that he has some contacts in RTO and will get the car registered with manufacturing year 2014 by himself, to which the OP-2 advised the complainant not to do such things as they are illegal and unethical and will create problem for complainant itself in future. OP-2 has submitted copy of Temporary Certificate provided by it along with other documents. OP-2 further states that OP-2 also offered for insurance of the car, to which also complainant told the officials of OP-2 that he himself will get the car insured otherwise he won't get the car registered with manufacturing year as 2014.
  - iv. Later on, when complainant again approached OP-2 to purchase the extended warranty of his car, he was told by officials of OP-2 that extended warranty has been stopped by Porsche India.
  - v. Complainant has malafide intentions from the very beginning to get the manufacturing year changed from 2013 to 2014 in order to get a good resale value, however, when he did not succeed after plying the car for almost 4 years, the complainant approached the Commission.
  - vi. The OP-2 contends that the complainant has not approached this Commission with clean hands as he has suppressed and concealed various material facts, the complaint is patently frivolous and vexatious, alleged claims of complainant are exaggerated and mischievous.
6. Complainant in his rejoinder stated that OP-2 has created false and fabricated documents to defeat the claim of complainant and has filed such documents as Annexure-B, Annexure-C to the written statement and stated that true copies of Form 21 and Temporary Certificate of Registration issued by OP-2 to RTO have already been filed by Complainant as Annexure C-3 (Colly). Complainant denied having bought the 2013 manufacture year car on a discount of Rs.11.90 Lakh. Complainant further stated that under the prevalent law and practice, the seller of vehicle has to submit documents, including Form 21 and Temporary Registration Certificate for registration of car directly to RTO. Rule 42 of Central Motor Vehicle Rules states that "No

holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent". Complainant contends that documents as issued by RTO under RTI to complainant were submitted by OP-2 itself to RTO. Now OP-2 has fabricated Form 21 and Temporary Registration Certificate and placed along with written statement. This is a serious criminal offence and this Commission may initiate appropriate criminal proceedings against OP-2 in this regard. According to complainant, the extended warranty could not be extended perhaps due to wrong entry of manufacturing year in the system of OPs.

7. Heard counsel for Complainant on 22.02.2023. No one appeared on behalf of OPs. Contentions/pleas of the parties, on various issues raised in the Complaint, based on their Complaint/Reply, Rejoinder, Written Arguments, and Oral Arguments advanced during the hearing, are summed up below.
8. We have perused various documents produced by both sides. Invoice dated 28.02.2014 produced by both complainant and OP-2 does not contain 'year of manufacture'. Vehicle particulars produced by complainant, which he obtained from RTO, Dehradun under RTI, shows month/year of manufacture as 4/2014. Form 20-Application for Registration of Motor Vehicle produced by complainant (obtained by him under RTI) shows year of manufacture as 2014. While Form 21- Sale Certificate dated 28.02.2014 produced by complainant (obtained by him under RTI) shows year of manufacture as 2014, Form 21- Sale Certificate produced by OP-2 (Annexure B to written statement) shows year of manufacture as 2013. Similarly, Temporary Certificate of Registration (No.MLCHQ/TR/C-HR99-QV (TEMP)-6175 produced by complainant (obtained by him under RTI) shows year of manufacturing as 2014, but Temporary Certificate of Registration, bearing exactly the same number, produced by OP-2 (Annexure-C to written statement) shows year of manufacture as 2013. It is to be noted that in the Affidavit of admission/denial of documents of complainant, filed by OP-2 Annexure C-3 (Colly), the copy of RTI dated 16.01.2017 and reply dated 16.02.2017 is denied except for page 35 i.e. Form 21 (Sale Certificate). In the page 35 Form 21 (Sale Certificate), which is produced by complainant, the year of manufacture is mentioned as 2014. A perusal of Form 21 (Sale Certificate) and Temporary Registration Certificate produced by complainant and OP-2 show that not only these bear different year of manufacture, but bear signature of different authorized Signatory of 'Zanica Performance Cars Pvt. Ltd.', indicating thereby that these have been prepared separately and are not copies of same documents, e.g., date of issue and validity dates in Temporary Certificate, produced by OP-2 is

mentioned as '28-Feb 2014', and 29-Mar 2014' while in one produced by Complainant, these are mentioned as '28-02-2014' and '27-03-2014' respectively. Obviously, both the set of these two documents, one produced by complainant and other by OP-2 cannot be genuine, and one is a forged one. Both sides have stated in their pleadings with respect to year of manufacture on Oath in the evidence affidavit. Considering these two documents, as produced by complainant, having been obtained from a public authority under RTI Act and specially considering that OP-2 in its affidavit of admission/denial of documents have admitted Form 21 as produced by complainant, which bears year of manufacture as 2014, for the purpose of deciding the complaint, we accept the set of two documents produced by complainant as genuine and reject the set of documents (Form 21 Sale Certificate and Temporary Certificate of Registration) produced by OP-2. Hence for the purpose of deciding this complaint, we accept the contentions of complainant regarding year of manufacture being 2014. The act of OP-2 in selling car of 2013 year of manufacture as 2014 year of manufacture amounts to deficiency in service/unfair trade practice, making him liable to compensate the complainant for the same. Considering that complainant has been using the car in question since purchase, his prayer for providing a new car of same make or refund of Rs.80.00 lakhs plus other costs cannot be granted. However, he is entitled to compensation on account of deficiency in service/unfair trade practice on the part of OP-2.

9. At the same time, we would also like the matter pertaining to issuance of two documents viz Form 21 Sale Certificate and Temporary Certificate of Registration as produced by OP-2, which bears year of manufacture as 2013 and also bear signature of an authorized signatory different from the one who has issued these two documents as produced by the complainant to be investigated by the Police having jurisdiction of the area to find out whether the documents produced by OP-2 are false and fabricated, and if so, take appropriate action as per law.
10. For the reasons stated hereinabove, and after giving a thoughtful consideration to the entire facts and circumstances of the case, various pleas raised by the learned Counsel for the Parties, the Consumer Complaint is allowed/disposed off with the following directions/reliefs: -
  - (i) The OPs (OP-1 & OP-2) shall pay a lump sum compensation of Rs.10.00 lakh (Rupees ten lakhs) to the complainant along with simple interest @9% p.a. w.e.f. 28.02.2014 (date of purchase of car) till the date of payment.

(ii) The OPs shall pay a sum of Rs.25,000/- as cost of litigation to the complainants.

(iii) The liability of the OP(s )shall be joint as well as several.

(iv) The payment in terms of this order shall be paid within three months from today.

(v) Registry of NCDRC will take suitable actions as per para 9 of this order for referring the case to S.H.O. of Police Station concerned for investigation and appropriate action the matter as per law.

11. The pending IAs, in the Consumer Complaint, if any, also stand disposed off.

#### **Annexure-A**

#### **Brief Details of the Case**

<b>Sr No</b>	<b>Particulars</b>	<b>Dates</b>
1	D/o Filing CC in NCDRC	08.01.2018
2	D/o Issue of Notice to OP(s)	20.04.2018
3	D/o Filing Reply/Written Statement by OP2	24.07.2018
4	D/o filing Rejoinder by the Complainant(s)	10.09.2018
5	D/o Filing Evidence by way of Affidavit by the Complainant(s)	22.03.2018 & 09.04.2019
6	D/o filing Affidavit of admission/denial of documents filed by Complainant(s)	31.12.2018
7	D/o Filing Evidence by way of Affidavit by the OP-2	30.04.2019
8	D/o filing Affidavit of admission/denial of documents filed by OP-2	03.04.2019
9	D/o filing Written Synopsis by the Complainant(s)	13.07.2022
10	D/o filing Written Synopsis by the OP-2	Not filed

.....J  
**RAM SURAT RAM MAURYA**  
**PRESIDING MEMBER**

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**DR. INDER JIT SINGH**  
**MEMBER**