

Date of Filing: 09.06.2023

Date of Order: 10.11.2023

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – II, HYDERABAD

P R E S E N T

SRI VAKKANTI NARASIMHA RAO ... PRESIDENT
SRI P.V.T.R JAWAHAR BABU ... MEMBER
SMT. D.SREEDEVI MEMBER

FRIDAY, THE 10TH DAY OF NOVEMBER, 2023

CONSUMER CASE NO.98/2023

BETWEEN:

Uppala Rajeev Babu, S/o U. Muralidhar Babu, Age-32, R/o 404,
RK Heights, Sangeet Nagar, Sai Baba Nagar Colony Kukatpally-
500072, Phone No: 9666020313.

...Complainant

AND

1. Paytm Hyderabad Main Office, Prashant Hills, Manikonda,
One97 Communications Limited 1st Floor, Rai Durg, MJR
Magnifique, Hyderabad, Telangana, Represented by Manager.
2. Domino's Pizza India, Represented by Manager Domino's Pizza
Kukatpally Ground Floor, Shop No.108, 109 (Part) Alluri Trade
Centre, Kukatpally (Hyderabad), Hyderabad, Telangana-
500072.

.... Opposite Parties

This complaint is coming before us on this the 18th day of October, 2023 in the presence of Learned Counsel A. Praveen Kumar, Advocate, appearing for the complainant and opposite parties called absent and Set ex-parte and on perusal of material papers available on record, having stood over for consideration till this day, the Commission passed the following:

O R D E R

(BY SMT D.SREEDEVI, HON'BLE MEMBER ON BEHALF OF THE
BENCH)

This complaint is filed on 9th June, 2023 by the complainant under Section 35 of Consumer Protection Act, 2019 with a prayer to direct the opposite parties to:

1. Grant the cost of the gift card and also 50,000/- (Rupees Fifty Thousand Only) for the time spared for sending mails, internet charges and the calls.

2. Pay Rs. 3, 00,000/- (Rupees Three Lakhs Only) towards mental agony, sufferance.
3. Pay 50,000/- (Rupees Fifty Thousand Only) as the Gift Card was purchased from paytm (online).
4. Grant any other relief as the Commission deemed fit and proper in the circumstances of the case.

BRIEF FACTS OF THE COMPLAINT:-

1. Complainant has purchased Dominos Gift card (Voucher code-1003781206530826), (Voucher pin-176937) Expiry date: 22.04.2022 worth of 300/- from Paytm (online) on 24.10.2021 at 05:57 pm. When, he tried to redeem the gift card by ordering/purchasing food items from Dominos Kukatpally store online on 25/10/2021 it couldn't use or redeem the gift card for which he tried reaching the Dominos customer care regarding this via calls, mails and also by visiting the store but failed to get proper response from Dominos Customer care, but Dominos-India on 26/10/2021 has replied saying that it is alright and is a valid gift card for applying the voucher, add your order to the cart and click on view cart. Please select the payment mode as Gift Card/EVoucher and enter the 16 digit code. The complainant even tried to check with Paytm as he purchased it through Paytm online, but they too even responded saying that they cannot help as they are not concerned once after customer purchases the items.
2. The cause of action arose on 25/10/2021. The Opposite party didn't resolve the issue of redeeming Gift Card (1003781206530826). As both Complainant and Opposite Parties (Paytm & Dominos India Pizza) are within jurisdiction of the Hon'ble Consumer commission. Hence this commission have got jurisdiction to entertain this complaint.
3. Complainant also approached via National Consumer App and registered the same issue/ complaint. The grievance was forwarded to the company by NCH, but no response has been received. It was also suggested to file a case at the designated Consumer Commission.

4. The complainant got issued Legal Notice on 28/03/2023 to both opposite parties 1 & 2 whereas, they received the said legal notice but failed to reply the same. The acts upon the part of the opposite parties are amounts to cheating, deficiency of service that leads to adoption of un-fair trade practice for which both the opposite parties are held liable. Hence, this complaint.
5. As no representation from both the opposite parties despite receipt of notice and no written version filed on lapse of 45 days statutory period, they were set-ex-parte.
6. Evidence affidavit of the complainant filed by examining himself as PW1. Ex.A1 to Ex.A4 marked. Written arguments filed by the Complainant. Heard oral submissions of the complainant. Considering the facts and on perusal of material available on record the points to be answered for determination are:-
 1. Whether any deficiency of service is there on the part of the opposite parties as claimed under the complaint?
 2. Whether the complainant is entitled for the relief sought?
 3. To what relief?

POINT NO.1 & 2:-

1. There is no dispute that as per Ex.A1, the Complainant have purchased 2nd Opposite Party Gift Voucher vide code No.100378120653086 having Vocher Pin-76937 from 1st Opposite Party worth @ Rs.300/- (Rupees Three Hundred Only) on 24.10.2021 which is valid upto 22.04.2022.
2. The contention of the Complainant is that he tried to redeem the gift card by purchasing food items on 25.10.2021 wherein it couldn't used or redeemed for which he tried to contact the customer care through calls, mails, tweets and also visiting the stores but failed to get proper response from Dominos Customer Care but whereas Dominos-India replied.
3. It is not in dispute that the Complainant have filed a online complaint under Ex.A2 before National Consumer Forum (NCH) on 11.10.2022 and in agent Remark mentioned as "The Grievance was forwarded to the Company by NCH but no response has been received" and also advised the Complainant to file a case at the designation Consumer Commission. The

Complainant also filed copy of payment details to the Opposite Party No.2 while purchasing the Dominos Pizza. But it was shown as “Error” and also shown as “This payment option is not allowed. Please try other payment modes”.

4. As per Ex.A3 the Complainant have conversed through messages, emails and tweet with Opposite Party No.2 regarding the problem for applying the gift voucher for purchase of pizza and the Opposite Party No.2 also replied that “we would like to inform you that your card is alright. For applying the voucher, add your order to the cart and click on view cart. Please select the payment mode as Gift Card/E-voucher and enter the 16 digit code”. The Complainant has tried but he was unable to purchase the pizza through using the gift card.
5. The Complainant has sent a legal notice to the Opposite parties on 27.03.2022. But both the Opposite Parties have not replied that legal notice and not resolved the problem. Both Opposite parties have received notices from this District Consumer Commission. Despite receipt of legal notice and also receipt of the notices from this District Commission, the Opposite Parties were not responded for which act of the Opposite parties clearly shows their thick-skininess and hard-core nature and attitude that amount to negligence and deficiency in services and also leads to adoption of un-fair trade practice. Hence the Opposite Parties are jointly and severally liable to pay compensation to the Complainant. Hence, these points are answered accordingly in favour of the Complainant.

POINT NO.3:-

In the result the complaint is allowed in part directing the opposite parties jointly and severally to:

1. Pay Rs.300/- (Rupees Three Hundred Only) towards cost of the gift card.
2. Pay Rs.5,000/-(Rupees Five Thousand Only) towards compensation and costs of the litigation.
3. Rest of the claims made by the complainant is dismissed.

4. Time for compliance is 45 days from the date of receipt of this order.

Dictated to Stenographer, Typed by her, corrected and pronounced by us in the open Commission today the 10th day of November, 2023.

MEMBER

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

Witnesses examined for Complainant:-

Mr. Uppala Rajeev Babu (PW1)

Witnesses examined for Opposite parties no.1&2:-

Set ex-parte

Exhibits marked on behalf of the Complainant:-

Ex.A1: is the Gift Card, Xerox copy of the Gift card purchase
Details from paytm.

Ex.A2: is the Xerox copy of Complaint filed through Consumer
Commission App.

Ex.A3: is the Xerox copy of Twitter regarding the Gift card on
25.10.2021.

Ex.A4: is the copy of original legal notice acknowledgement cards
And consignment Receipts sent to Opposite parties no.1&2.

Exhibits marked on behalf of the Opposite parties:-

--Nill--

MEMBER

MEMBER

PRESIDENT