**BEFORE THE HON’BLE DISTRICT CONSUMER DISPUTE REDRESSAL COMMISSION, (MAIN) VADODARA**

**CC.No.1115/2017**

IN THE MATTER OF:

Mr. Vayuma Kalpeshbhai Shah,

A/4, Hari Om tenament,

Vaghodia Road, near Vallabhnagar,

Bapud jakat, Naka Vadodara

................ COMPLAINANT

Vs.

1. Flipkart Internet Private Limited,

Corporate Office: Vaishnavi Summit,

No. 6/B 7th main 80 ft road,

3rd block, Koramangala, Bangalore

1. Motorola mobile manufacturing company,

415/2 Mahrauli-Gurgaon Road,

Sector 14, near Maharana Pratap chowk,

Gurgaon, Haryana

1. AV Technology, service centre,

108, Saffron Tower

Fatehgunj, Vadodara

............. OPPOSITE PARTY

COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT

RESPECTFULLY SHOWETH:

1. That the Complainant is a citizen of India residing in Vallabhnagar, Vadodara, and the Opposite Parties abovenamed, have their head offices in Bangalore, Gurgaon, and Vadodara respectively.
2. This complaint relates to the deficiency in service of the opposite party faced by the complainant.
3. On 17/03/2017, the complainant ordered a Motorola mobile phone (Model: FSNMOBENQATHQTKG7AVWID-WD 89732, IMEI/Serial No: 358218071570762, Description: Moto M Grey Color 64GB) through Flipkart (Respondent No. 1) from the manufacturer Motorola (Respondent No. 2) for Rs. 17,999/-.
4. The complainant received the mobile phone on 26/03/2017, but it was defective. He immediately complained about it. Flipkart replaced the phone, and the complainant received a new unit on 29/03/2017.
5. However, the second unit was also defective, so the complainant made an online complaint and, as per the respondents' guidance, took the phone to the authorized service center AV Technology (Respondent No. 3) for repair.
6. At the service center, the motherboard of the mobile phone was found to be problematic and was replaced. However, the same problem persisted even after the repair, and the complainant had to deposit the phone for repair multiple times within a few weeks of purchase.
7. The mobile phone remained under repair at the service center for 3 to 4 months from the date of purchase, and the problem was never resolved. The phone would take 2 to 3 hours to fully charge initially, but now it takes 7 hours to charge fully and is not working properly.
8. Before filing the complaint, the complainant sent an email to the respondents demanding a refund of Rs. 17,999/-, but the respondents did not reply or take any action to resolve the issue. The Complainant has also sent a legal notice to the respondents.
9. The Complainant relies on the following evidences:
   1. ID proof of the insured
   2. Copy of the order/invoice dated 17/03/2017 from Flipkart for the purchase of the Motorola mobile phone for Rs. 17,999/-
   3. Delivery receipt dated 26/03/2017 for the first defective mobile phone unit received from Flipkart
   4. Copy of the email sent to Flipkart and Motorola regarding the defective first unit, along with any acknowledgment or response received
   5. Customer information slip from AV Technology for the repairs carried out on the defective mobile phone, including details of the motherboard replacement
   6. Copy of legal notice sent to Flipkart, Motorola, and AV Technology demanding a refund and compensation, along with any acknowledgment or response received
10. The complainant has not filed any complaint having the same cause of action in any other forum or court.
11. The complainant resides within the jurisdiction of this Hon'ble Commission. Hence this Hon'ble Commission has jurisdiction to try and entertain this complaint
12. The total consideration amount paid in purchasing the mobile phone is less than Rs. 50 lakhs. Hence, this Hon'ble Commission has jurisdiction to entertain this complaint.
13. The cause of action arose on 26/03/2017 which is within the limitation period prescribed under the Act. Hence, the claim in the complaint is not barred by the law of limitation.
14. The Complainant is complying with the Court Fees Mandated under Rule 7 of the Consumer Protection (Consumer Dispute Redressal Commission) Rules, 2020.
15. In the circumstances, the Complainant therefore prays that:
    1. The opposite party be directed to refund the Complainant the sum of Rs. 17,999/- being the cost of the mobile phone, with interest at the rate of 18% per annum from the date of the first complaint made to Respondent No. 3 (service center)
    2. The opposite party be directed to pay the Complainant the sum of Rs. 30,000/- as compensation for mental depression, agony, and special costs incurred in filing the complaint, as well as other compensation.

Dated this day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**COMPLAINANT**

**VERIFICATION**

I, Vayuma Kalpeshbhai Shah, resident of Hari Om tenement, Vallabhnagar, Vadodara hereby declare that I have not misrepresented any facts nor have tried to hide any information in my above complaint. All the facts mentioned herein are true to the best of my knowledge.

Name & signature of the complainant