DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION MADURAI

C.C.No…../……

IN THE MATTER OF:

D.Franklin Arul Stephen,

S/o. Daniel Raj,

Age:45

Occupation:Pilot

D.No.413, Seminary Lane,

Pasumalai,

Madurai – 625002. ………Complainant

Vs

1. M/s. Yamaha Music India Private Limited,

Represented through its Managing Director,

P-401, JMD Mega Poils,

Sector 48, Sohna Road,

Gurgaon,

Haryana – 122018.

2. Proprietor,

Honey Musical Instruments Gallery,

No.201, Rajan complex,

Tamil Sangam Road,

Madurai . ………Opposite parties

COMPLAINT UNDER SECTION 35 OF THE CONSUMER PROTECTION ACT, 2019

1. The address of the Complainant for the purpose of service of summons, notice etc is as shown in the cause title above and that of his counsel
2. The address of the Opponents for the very purpose is the same as shown in the cause title above.
3. Herein the above-named Complainant most respectfully submits as under,
4. That the complainant is a law abiding citizen of India residing at the above mentioned address along with his family comprising his wife, two children and aged parents. The complainant is the sole bread earner of the family and is working as a Clerk at the District Court, Madurai.
5. It is submitted that the complainant's daughter, Kumari F. Fabita Franklin, aged 13 years, is a bright young girl studying in 8th standard at Sacred Heart Matriculation School, Madurai. She has a keen interest in music and has been learning classical piano under a music teacher since the age of 10 years.
6. It is submitted that in the year 2013, when Kumari F. Fabita Franklin was preparing to appear for the Grade 3 piano examinations conducted by Trinity College London, the complainant purchased a Yamaha Digital Keyboard, Model No. PSR I455 ("the keyboard") manufactured by the Opposite Party No. 1 from the Opposite Party No. 2 for a sum of Rs. 22,000/- (Rupees Twenty Two Thousand Only) on 14.11.2013. The original cash memo evidencing the purchase is annexed herewith as Annexure A-1.
7. It is submitted that at the time of purchase, the Opposite Party No. 2 represented that the keyboard can be used for preparing up to Grade 8 of the Trinity College London music examinations. The said representation was also printed on the box of the keyboard, as well as on a pamphlet provided by the Opposite Party No. 2. Photocopies of the box sticker and pamphlet are annexed herewith as Annexure A-2 and A-3 respectively.
8. It is submitted that trusting the representation and advice of the Opposite Party No. 2, the complainant purchased the Yamaha PSR I455 keyboard for his daughter to assist her in preparing for the Trinity College London music examinations up to Grade 8.
9. It is submitted that Kumari F. Fabita Franklin successfully completed her Grade 3, 4 and 5 piano examinations using the Yamaha PSR I455 keyboard purchased by the complainant.
10. It is submitted that however, when she started preparing for the Grade 6 examinations in October 2016, her music teacher Mr. Rajesh informed that the PSR I455 keyboard was not suitable for exams above Grade 5 due to lack of certain advanced features like the base chord option.
11. It is submitted that the complainant was shocked and anguished to learn this, as the keyboard had been purchased specifically for his daughter's music education relying on the Opposite Party's representations of its suitability up to Grade 8 examinations.
12. It is submitted that the complainant emailed the Opposite Party No. 1 on their customer care email address on 27.05.2016 to complain about this deficiency in the Yamaha PSR I455 model, which made it unusable for Trinity college exams above Grade 5 contrary to the Opposite Party's representations. However, the Opposite Party No. 1 failed to provide any response to the complainant's email. A printout of the complainant's email dated 27.05.2016 is annexed herewith as Annexure A-4.
13. It is submitted that left with no other option, the complainant was forced to purchase a new and more advanced Yamaha PSR S970 model keyboard worth Rs. 95,000/- in November 2016 for his daughter's further music education and practice.
14. It is submitted that the aforesaid facts and circumstances clearly prove gross deficiency in service on the part of the Opposite Parties and adoption of unfair trade practice by making false representations regarding the suitability of PSR I455 keyboard model up to Grade 8 examinations.
15. It is submitted that the complainant has suffered immense mental agony, harassment and financial loss due to the deficient service and false assurances of the Opposite Parties. The complainant's daughter's future education has been jeopardized and her progress delayed.
16. It is submitted that the complainant sent a legal notice dated 04.03.2017 to the Opposite Parties requesting refund of Rs. 22,000/- paid for the defective PSR I455 keyboard and compensation for harassment faced by him. The Opposite Parties received the legal notice on 20.03.2017 but failed to provide any reply or resolve the issue. Copy of the notice along with postal receipts are annexed herewith as Annexure A-5, A-6 and A-7.

CAUSE OF ACTION: The cause of action in this case arose in October 2016 when the complainant's daughter, Kumari F. Fabita Franklin, began preparing for the Grade 6 piano examinations and her music teacher informed that the Yamaha PSR I455 keyboard purchased from the Opposite Parties was not suitable for exams above Grade 5 due to certain advanced features lacking, contrary to the representations made by the Opposite Party No. 2 at the time of purchase.

TERRITORIAL JURISDICTION: The complainant and the opposite party both reside within the jurisdiction of this Hon'ble Commission. Hence this Hon'ble Commission has jurisdiction to try and entertain this complaint.

PECUNIARY JURISDICTION: The total consideration amount paid in purchasing the hotel booking is less than Rs. 50 lakhs. Hence this hon'ble commission has jurisdiction to entertain this complaint.

EVIDENCE:

A-1. Cash Memo dated 14.11.2013

A-2. Keyboard box sticker

A-3. Pamphlet

A-4. Email dated 27.05.2016

A-5. Legal Notice dated 04.03.2017

A-6. Postal receipt

A-7. Proof of delivery

PRAYER

In view of the facts and circumstances stated above, it is most humbly prayed that this Hon'ble Forum may be pleased to:

a) Direct the Opposite Parties to jointly and severally refund the sum of Rs. 22,000/- paid by the complainant for the purchase of defective Yamaha PSR I455 keyboard, along with interest at 18% p.a. from the date of purchase till realization;

b) Direct the Opposite Parties to jointly and severally pay a sum of Rs. 1,00,000/- to the complainant as compensation for the mental agony, harassment, inconvenience and financial loss suffered by him due to the deficient service;

c) Direct the Opposite Parties to pay costs of Rs. 15,000/- to the complainant;

d) Pass any other order as deemed necessary in the interest of justice.

Madurai

Date: Advocate

for the Complainant

**VERIFICATION:-**

I, D.Franklin Arul Stephen, S/o. Daniel Raj, D.No.413, Seminary Lane, Pasumalai, do hereby solemnly affirm that the facts stated above in paras 1 to 9 are true to the best of my knowl­edge and based on the records maintained by me, which I believe to be true.

Verified at, on this \_ day of \_\_\_

**ANNEXURE OF EVIDENCE**