

## Khosla Electronics Pvt. Ltd. vs Uttam Kr. Nag on 17 May, 2022

Cause Title/Judgement-Entry

STATE CONSUMER DISPUTES REDRESSAL

SHYAMAL KUMAR GHOSH, PRESIDING MEMBER

The instant appeal has been directed against the impugned judgment and order dated 05/11/2019 passed by Id DCDRC, South 24th Parganas, Baruipur (hereinafter referred to as Baruipur DCDRC) in connection with CC case no - 138/2018 wherein the Trial Commission while disposing of the said complaint case allowed the same on contest against the op with cost and compensation and being aggrieved by such order, the present appeal has been preferred by the appellant /op.

The brief fact of the case is that being influenced by an advertisement, the complainant/respondent purchased one AC Machine from the op/appellant by payment of consideration amount of Rs. 35,500/- only on 11/04/2017. The said machine was manufactured by M/S - Panasonic India Private Ltd. Bearing model no.CS-KC18RKY-1. In the said advertisement, it was clearly noted that the condenser of the said machine was made by copper. But subsequently, it was informed that it was made by aluminium instead of copper. Under such situation, the complainant / respondent sent a letter dated 10/04/2018 addressed to the appellant with a request to solve the problem. The op/appellant did not pay any heed in this matter. Thereafter a complaint was lodged at the behest of the complainant / respondent in the office of CA and FBP on 20/05/2018 for redressal. But no redressal was made and having no other alternative, the complainant/ respondent filed a consumer complaint case being no - 138/2018 against the op/appellant for getting proper relief/reliefs as prayed for.

The op/appellant contested this case by filing written version stating inter alia that the op/appellant did not agree to sell any AC machine with copper condenser. The op/appellant sold the said AC machine with aluminium condenser and the said machine was installed at the premises of the complainant/respondent. After installation of the said machine no problem was caused till date. The complainant is enjoying the service of the said machine without any disturbance. No policy of unfair trade practice was taken by the op/appellant. Rather they are very reputed retail counter and as such they are always trying to provide good and fair service to all customers in order to maintain their good reputation. There was no fault or deficiency in service on the part of the op/appellant and as such the instant consumer case filed by the complainant/respondent would be rejected with cost.

In course of hearing Id counsel appearing for the appellant/op drew our attention to the observation of Id DCDRC and pointed out that the Id Trial Commission below completely ignored and overlooked the materials and documents on record while passing the impugned order mentioned above. Id counsel also submitted that they have not committed any unfair trade practice. Rather they have been providing proper service to all consumers since long period of time in order to maintain their goodwill of their retail counter. Id counsel also added that the claim of the complainant/respondent has no stand point as the said claim suffers from frivolous and baseless justification.

In course of hearing Mr. Uttam Kumar Nag appearing in person as a complainant/respondent argued that it is a clear case of unfair trade practice at the behest of the op/appellant as they supplied the AC machine manufactured by PANASONIC COMPANY PVT LTD being model no. CS KC18RKY - 1 bearing aluminium condenser instead of copper causing gross negligence and deficiency in service on the part of op/appellant. There is no such error or wrong in passing the impugned order and judgment dated 05/11/2019 and as such ld counsel has prayed for dismissal of the instant appeal filed at the instance of op/appellant.

We have heard the ld. advocate for the op/appellant and Mr. Uttam Kumar Nag appearing in person as complainant/respondent at length.

We have perused all relevant documents and materials on record meticulously.

From the four corners of the record it is clear to us that the disputes between the parties stand upon some relevant questions which are analysed below:-

It is admitted that the AC machine being model no. CS-KC18RKY-1 is manufactured by M/S PANASONIC INDIA PVT LTD. Now the question is that whether the condenser of the split AC machine, 1.5 ton, model no-CS-KC18RKY-1 is made of the metal of aluminium or copper.

The complainant has filed a printed copy of advertisement of M/S - PANASONIC COMPANY, kept with the record, which is available from the website of "AMAZON". The said advertisement clearly reveals as "(PANASONIC CS-KC18RKY-1 SPLIT AC 1.5 TON, 3 STAR RATING, WHITE, COPPER)" (ANX-1). Now the question is that whether the aforementioned advertisement has been truly displayed in the web page of 'AMAZON' or not.

Whether the misleading advertisement by any means has been involved in the instant consumer case or not.

Whether the unfair trade practice has been caused by any manufacturing company or trader or others as alleged by the complainant/respondent.

At this juncture we feel that the instant consumer complaint case being no - 138/2018 suffers from defect of non-joinder of necessary parties and in order to fill up the said lacuna and settlement of disputes between the parties, the presences of both manufacturing company as well as AMAZON are highly needed. Until and unless we do get the answers of all aforementioned questions in presence of all parties, we can't reach the concrete conclusion in field of present consumer case.

Moreover the actual truth would be come out when the manufacturing company viz M/S - PANASONIC INDIA PVT LTD AND AMAZON both are to be added as a necessary parties in the cause title of the CC case.

Keeping in view of the above observations, the matter is remanded back to the ld Trial Commission for hearing afresh in presence of all parties and to that effect Ld Trial Commission is requested to give the directions upon the complainant to take proper steps for impleading the necessary parties in order to get finality of litigation of the present consumer case.

The present contested parties are hereby directed to appear before the ld Trial Commission on 15.06.2022 for compliance of further directions given by the ld DCDRC.

Accordingly the Appeal being no - A/820/2019 is allowed in part and disposed of as per above observations and subsequently the impugned judgment and order dated 05/11/2019 passed by ld DCDRC, South 24th Parganas, Baruipur is set aside.

No order as to costs.

Note accordingly.

Let a copy of this order be transmitted to the Ld. Trial Commission forthwith for information and taking necessary action. [HON'BLE MR. SHYAMAL KUMAR GHOSH] PRESIDING MEMBER [HON'BLE MR. SUBHRA SANKAR BHATTA] JUDICIAL MEMBER