

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mazhar Alam Khan Miankhel

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.47-P/2017

*(Against the judgment dated 08.9.2017 of the Peshawar High Court
Peshawar passed in Cr.A. No.338-P/2016)*

***Sui Northern Gas Pipelines Ltd through
its G.M. Hayatabad Peshawar***

...Petitioner(s)

Versus

***M/s Saif Textile Mills Ltd. 3rd Floor Kalsoom Plaza, 2020,
Blue Area, Islamabad, Industrial Estate Gadoon Amazai,
District Swabi***

...Respondent(s)

For the Petitioner(s): Mr. Asad Jan, ASC

For the Respondent(s): Mr. Shahid Qayyum Khattak, ASC
Mr. Tasleem Hussain, AOR

Date of hearing: 30.6.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- Respondent is a textile unit, set up in Gadoon Amazai, incorporated under the Companies Ordinance, 1984 with the name and style of M/s Saif Textile Mills Ltd, powered on natural gas supplied by Sui Northern Gas Pipelines Limited (SNGPL) through Meter No.74058, initially installed at the premises on 27.11.2009. The gas company noted a substantial shortfall in the readings recorded by the meter and replaced it with a new one on 24.01.2010. Loss to the exchequer was estimated as Rs.11.68 million. It is in this backdrop that the respondent arraying, amongst others Federation of Pakistan along with Gas & Regulatory Authority, SNGPL and Executive Engineer, SNGPL filed W.P. No.3433 of 2011 in the Peshawar High Court, seeking multiple declarations and prayers; the High Court, however, vide order dated 20.12.2011 transmitted the writ petition to the District & Sessions Judge/Tribunal Protection Consumer Interest Peshawar to redress respondent's grievance; it also restrained the department from disconnecting the gas connection. The Sessions Judge transferred the complaint to the Consumer Court constituted under the Khyber Pakhtunkhwa Consumer Protection Act, 1997 (Khyber Pakhtunkhwa Act No.VI of 1997), "**the Act**". The complaint was dismissed vide order dated 08.04.2015, however, the High Court, vide order dated 3.7.2015, once again remanded it for decision afresh with results no different than earlier vide order dated 21.04.2016, impugned

by the respondent before the High Court. The High Court vide impugned judgment dated 8.9.2017 accepted the appeal in the following terms:-

"For the reasons discussed above, I while accepting this appeal, set aside the judgment of the learned Consumer Court dated 21.04.2016 and allowed the complaint"

2. Learned counsel for the petitioner contends that there was no occasion for the High Court, in the first place, to transmit the Constitution petition involving factual controversies requiring technical verification for determination to the Consumer Court and, thus, on each occasion the Consumer Court rightly dismissed the complaint. It is next argued that the Act is a Statute devised to protect legitimate rights of a consumer to have best value for his money and for that places specified obligations upon the manufacturer as is evident from its preamble; the respondent is not a consumer nor the petitioner a manufacturer within the contemplation of section 2(c) and 2(j) of the Act and, thus, the High Court had misdirected itself to refer the issue to the Court, an error rectified through successive dismissals leaving no space for the High Court to allow the complaint by putting at peril a colossal amount due to the public exchequer, concluded the learned counsel.

3. Contentions raised need consideration; leave, *inter alia*, is granted to the petitioner. Mr. Shahid Qayyum Khattak, ASC has entered appearance to defend the impugned order. Office is directed to prepare the paper book with parties, at liberty to place the additional documents, if any. Since, a short matter involving public exchequer is involved, the office shall cause fixation of the appeal with all convenient dispatch.

Cr.M.A. No.61-P/2017

4. Operation of the impugned judgment shall be held in abeyance.

Judge

Judge

Peshawar, the
30th June, 2021
Not approved for reporting
Azmat/-