

**BEFORE THE TELANGANA STATE CONSUMER DISPUTES
REDRESSAL COMMISSION : HYDERABAD.**

**F.A.No. 119 OF 2020
AGAINST ORDERS, DATED 23.12.2019 IN C.C.74/2018
DISTRICT CONSUMER COMMISSION, MAHABUBNAGAR**

Between:

1. The Chairman cum Managing Director,
Sri Jayarama Motors Pvt., Ltd., Mettugadda, Mahabubnagar.
2. The Manager, Sri Jayarama Motors Pvt., Ltd.,
Mettugadda, Mahabubnagar.
.....Appellants/ Opposite Parties

And:

Mohd. Shabbir, S/o Late Haji Abdul Kareen,
Aged 64 years, Occ.: Business,
R/o H.No.29-8, Moosa Compound, Badepally Town,
Jadcherla Mandal, Mahabubnagar District.
.....Respondent/ Complainant

Counsel for the Appellants/Opposite Parties : M/s KRR Associates

Counsel for the Respondent/ Complainant : Sri GVS Prasad Rao.

QUORUM :

**HON'BLE SMT. MEENA RAMANATHAN, I/c PRESIDENT
&
HON'BLE SRI. V.V.SESHUBABU, MEMBER – (JUDICIAL)**

**TUESDAY, THE 12th DAY OF NOVEMBER
TWO THOUSAND TWENTY FOUR**

Order : (PER HON'BLE SRI. V.V.SESHUBABU, MEMBER – JUDICIAL)

1. The appeal is filed U/s 15 of Consumer Protection Act, 1986 by the Opposite Parties, aggrieved by the order of District Consumer Commission, Mahabubnagar, dated 23.12.2019 in CC 74/2018 where under the opposite parties with a joint and several directed to refund Rs.14,890/- along with compensation of Rs.50,000/- and costs of Rs.1,000/- within one month from the date of this order.

2. The brief averments of the complaint are that the complainant is the owner of Maruthi 800 (1993) Model Car, bearing No.AP 10 E 0113; that he approached the opposite parties to purchase new Maruthi Alto 800 LX I BS IV Car and sold away his Maruthi 800 car in exchange to the opposite parties for Rs.30,000/- and signed all necessary documents; that the price of old car was adjusted in the purchase of Alto Car; that the complainant purchased Alto car and subsequently sold away the same to others; that on 12.05.2016, the complainant purchased "TATA ZEST" XT QJET ABS 90PS BS4, from Mallik Cars Pvt., Ltd., and at the time of registration of the same, the office of RTA, Mahabubnagar, found that Maruthi 800 car of 1993 model still standing in the name of the complainant, as such charged 14% as tax; that the complainant was made to pay additional cost of Rs.14,890/-; that it all happened due to negligence of opposite parties and their actions, amounts to deficiency of service; that when the complainant approached opposite parties and explained about problem, he was humiliated; that the complainant got issued a legal notice, dated 30.08.2018 with a damage to pay Rs.14,890/- with interest, costs and compensation, for which no reply was given and no amount was paid; hence, the complaint.

3. The brief averments of the written version/counter of Opposite Parties No.1 & 2 are that the complainant has put to strict proof of all the averments made in the complaint, except those that are admitted; that the complaint is not maintainable either on facts or under law; that the complainant sold his Maruthi 800 (1993) Model Car to the opposite parties for Rs.30,000/- and the same was adjusted in the purchase of Alto car; that never the opposite parties promised the complainant to transfer Maruthi 800 Model Car in their name; that the opposite parties are in habit of purchasing old car as a promotion to sell the new cars and if the old cars are not usable or roadworthy condition, they will be sold for scrap; that the tax at 14% will be levied if the complainant owns even a two wheeler also; that the opposite parties are not

responsible for the additional tax of Rs.14,890/- paid by the complainant; that the complainant is filed to make a wrongful gain and there is no cause of action at all; that the alleged, abuses said to have been made by the opposite parties against the complainant, are utter false. With this requested to dismiss the complaint with costs.

4. Before the Commission below, complainant filed evidence affidavit as PW1 and marked Ex.A1 to A12. One Sri Ram Reddy, Managing Director of opposite party No.1, filed evidence affidavit as RW1, but no document is marked for the opposite parties. Written arguments are filed for opposite parties.

5. The Commission below, settled the following points for discussion viz..:

- **Whether there is any deficiency on the part of Opposite Parties in rendering service to the complainant as alleged?**
- **Whether complainant is entitled for the relief sought for by him?**
- **To what relief?**

6. Having heard both sides, the Commission below basing on the material available on record passed the order as stated supra. Aggrieved by the same, the present appeal is filed by the opposite parties with the following grounds:

- The order of the Commission below is contrary to law, weight of evidence and probabilities of the case.
- The Commission below failed to observe that the complaint is barred by time.
- The Commission below failed to observe that since Maruthi 800 Car is an old one, the opposite parties could not sell it and it remained in their yard, further damaged beyond repair.

- The Commission below failed to appreciate that no document is filed by the complainant to show that he was charged with 14% tax, being the owner of Maruthi 800 car also besides the newly purchased one.
- The Commission below failed to observe that there is no deficiency of service on the part of the opposite parties at all.
- The Commission below failed to appreciate that Maruthi 800 (1993) Model Car when standing in the name of the complainant, he should have paid tax at 14% for the purpose of Alto Car itself and no evidence has placed that the complainant sold away the Alto car by the time of purchase of TATA ZEST car.

With these grounds and others that will be urged at the time of arguments requested to set aside the order of the Commission below and to allow the appeal.

7. Now the points for determination in the appeal are :

- (1) Whether there is any deficiency of service on the part of the opposite parties?**
- (2) Whether the impugned order is sustainable under law?**
- (3) Relief?**

8. Heard the arguments on both sides. For the sake of the convenience, the parties will be addressed as they arrayed in the impugned order.

9. **POINTS 1 to 3:** Admittedly, PW1 gave his Maruthi-800 (1993) Model Car on 23.10.2013 to the opposite parties in exchange for the purchase of Alto Car for Rs.30,000/-. The same can be observed under Ex.A1, A2 and A3. It is categorically admitted by the opposite parties that they have not registered 1993 Model 800 car in its name and also admitted that it was not sold to anybody and remained in their yard in a damaged condition.

10. Ex.A4 goes to show that PW1 purchased Alto car, bearing No.AP 22 AQ 5311 on 12.11.2013 for which he paid life tax of Rs.32,780/-, since Maruthi 800 Car is still standing in the name of PW1 by the date of registration of Alto Car on 12.11.2013. The RTA authorities, might have collected 14% tax by the time of registration of the Alto Car also.

11. Except, the pleadings in the complaint, that PW1 sold away the Alto car, no document whatsoever, is filed to prove the same and to whom it was sold. In the absence of such proof, nothing can be inferred that PW1 sold the Alto Car. It is important to note that nowhere, the registration authorities while collecting the tax and additional tax from PW1 at the time of registration of "TATA ZEST" car in the year 2016 mentioned that, Maruthi 800 car is still standing in the name of PW1 and for that reason only, tax was collected at 14%. They might have collected the tax at 14% by the time of purchase of Alto car, since Maruthi 800 car is still standing in the name of PW1. As pleaded in the written version/counter of opposite parties, the tax at 14% will be collected even if the proposed owner is holding a two wheeler. Nothing is mentioned in the pleadings of the complaint or in the evidence affidavit of PW1 that he was not holding any two wheeler. We are reiterating at the cost of repetition that no IOTA of evidence is placed regarding the sale of Alto car. When the sale transaction of the Maruthi 800 (1993) Model car took place in the year 2013, the complainant should have filed within two years from thereon. As already discussed supra, the tax authorities might have imposed 14% tax at the time of purchase of Alto Car, as PW1 is holding Maruthi 800 (1993) model. So, there is every opportunity for PW1 to know that Maruthi 800 car is still standing in his name. It means, the complaint is also barred by time, in the absence of proof that PW1 was charged with 14% tax for holding Maruthi 800 (1993) model car. So, the Commission below without considering these aspects, passed the award, as such complaint should have been dismissed. Accordingly, appeal is allowed by answering the points in favour of the appellant.

12. In the result, the appeal is allowed without costs by setting aside the impugned order dated 23.12.2019 in CC 74/2018 of the District Consumer Commission, Mahabubnagar. Appellant is permitted to withdraw the statutory deposit after lapse of revision time.

Typed to my dictation by Stenographer on the System; corrected by me and pronounced by us in the Open Court on this the 12th day of November' 2024.

Sd/-

Sd/-

I/c PRESIDENT

MEMBER-JUDICIAL

Dated : 12.11.2024

*AD