

ठाणे जिल्हा ग्राहक तक्रार निवारण आयोग
रुम नं.214, दुसरा मजला, जिल्हाधिकारी कार्यालय इमारत, ठाणे-400 601

Complaint Case No. CC/183/2021
(Date of Filing : 08 Mar 2021)

1. AMRITPAL SINGH KHALSA
201-2 PLEASURE PARK OPP PINTO PARK,OT
SECTION ULHSNAGAR 421003
THANE
MAHARASHTRA

.....Complainant(s)

Versus

1. 1.AMAZON.IN THROUGH ITS
OPERATIONS MANAGER
OFFICE AT 8TH FLOOR,BRIGADE
GATEWAY,26/1 BRIGADE WORLD TRADE
CENTRE,DR RAJKUMAR RD,BANGALORE
560055
2. 2.MR. AMIT AGARWAL INDIA HEAD OF
AMAZON.IN
8TH FLOOR,BRIGADE GATEWAY,26/1
BRIGADE WORLD TRADE CENTRE,DR
RAJKUMAR RD,BANGALORE 560055
3. 3.KNK MPL C/O AMAZON SELLER
SERVICES PVT LTD
26/1,10TH FLOOR,BRIGADE WORLD TRADE
CENTRE,DR RAJKUMAR RD,BANGALORE
560055 ANOTHER ADDRESS- SHOP 34,3RD
FLOOR,SHIVALIK 3,AHMEDABAD,GUJRAT
380004
4. 4.FEDEX TRADE NETWORKS TRANSPORT
& BROKERAGE PVT LTD
208 K P AURUM,KP ENGINEERING
COMPOUND,NEAR SUMER PLAZA,MAROL
MAROSHI RD,ANDHERI EAST,MUMBAI
400059

.....Opp.Party(s)

BEFORE:

HON'BLE MS. DR. RICHA BANSOD PRESIDENT
HON'BLE MR. B. B. RASAL MEMBER
HON'BLE MR. H. M. BADGUJAR MEMBER

PRESENT: In person.

Matter is proceeded exparte against OP.No.1 to4.

Dated : 08 Apr 2024

Final Order / Judgement

PER HON'BLE MS.DR.RICHA BANSOD, PRESIDENT

The complaint was admitted on 28th June, 2021 under section 35 of Consumer Protection Act 2019. The facts of the complaint are as follows;

The complainant is a resident of Ulhasnagar and has filed a complaint against opponent no.1 Amazon.in, 2 Mr.Amit Agarwal of Amazon.in, 3. KNK MPL, which is a third-party seller, 4. FedEx trade networks transport and brokerage Private Limited, Courier Services.

The complainant ordered WD elements 2TB portable external hard drive (black) for the price of Rs.3999/- paid vide UPI number 934001611841 from the Amazon.In website, in December 2019.

The product was dispatched by opponent no.2 through FedEx Courier vide awb number 778 683 468 599. The product was not delivered on 14th December 2019 as expected. Opponent no.1 through the customer executive assured that the complaint will be resolved in 48 hours. However, the product was not delivered, and the money was not refunded.

The complainant submits that the cause of action arose on 6th December 2019. The complainant submits that he has filed a criminal complaint at Ulhasnagar. The prayer of the complainant is that the opponents directed to pay jointly and severally the cost of Rs.3999/- along with 24% interest from 6th December 2019 till date. -That the opponent be directed to pay jointly and severally for new hard disk of similar or superior make. -That the opponent be directed to pay Rs.3,00,000/- for compensation towards mental agony and mental harassment.

The complainant filed a copy of the invoice, a copy of FedEx tracking, a copy of email dated 14th December, 2019, 16th December 2019, 18th

December 2019, 21st December 2019, further the emails dated 24th December 2019, 06th January 2020, 08th January 2020, and 10th January, 2020 along with the copy of the A to Z guarantee clause by opponent no.1 and a copy of feedback of opponent no.2 by customers.

The complaint was admitted, and notice sent to opponents to file their written statement. The opponents failed to appear and file their written statements. The complaint was allowed to proceed *ex parte* on 21st August 2021.

The complainant filed an affidavit of evidence and a purshis for written notes of arguments stating that the commission adopt the affidavit of evidence as written arguments.

We perused the complaint, the list of documents, the affidavit of evidence of the complainant, and heard the oral arguments. The Commission has come to the following conclusion for the reason stated below;

Sr.No	Points	Findings
1.	Whether the commission has jurisdiction to entertain the complaint?	In affirmative.
2.	Whether the opponent has committed deficiency in service towards the complainant?	In affirmative.
3.	Is the complainant entitled to the relief sought?	Partly in affirmative.
4.	What order?	As per the final order

REASONS

As to point No.1 to 4:- The complainant is a resident of Ulhasnagar and hence this Commission has the jurisdiction to hear this complaint. The complainant has purchased the harddisc by paying the amount of Rs. 3999/- that is proved by the invoice placed on evidence. Therefore, the complainant is a consumer.

The opponents have failed to deliver the said product, and therefore, the complainant was compelled to issue a legal notice and file the present complaint. The opponents failed to appear and also failed to place their defence on record. Hence, the allegations and contentions made by the complainant are recorded and allowed.

The opponents failed to deliver the goods to the complainant. Therefore, we pass the following order.

FINAL ORDER

1. The consumer complaint No.183 of 2021 is partly allowed.
2. The opponents 1 to 4 jointly and severally directed to provide product that is WD elements 2TB hard drive **or in alternative** refund Rs.3,999/- (Rupees Three thousand, Nine hundred, Ninety nine only) to the complainant.
3. The opponents 1 to 4 jointly and severely directed to pay the sum of Rs.10,000/- (Rupees Ten thousand only) towards mental agony and Rs.1,000/- (Rupees One thousand only) towards cost to the complainant.
4. The opponents are directed to comply with the order within 30 days from the receipt of this order.
5. Member sets to be returned to the complainant.

6. Copy of this order to be finished to the parties free of cost.

**[HON'BLE MS. DR. RICHA BANSOD]
PRESIDENT**

**[HON'BLE MR. B. B. RASAL]
MEMBER**

**[HON'BLE MR. H. M. BADGUJAR]
MEMBER**