8/5/23, 12:23 AM Daily Order

## DISTRICT CONSUMER DISPUTES REDRESSAL COMMISSION-I, U.T. CHANDIGARH

Consumer Complaint No.	:	CC/686/2021
Date of Institution		08/10/2021
Date of Decision		27/07/2023

Lakshay Kundu (aged 17 years) through his guardian Sh.Rajesh Kumar, (Father), S/o Late Sh.Samsher Singh, R/o House No.504, Kundu Niwas, Near New Govt. School, Kishangarh, Chandigarh.

... Complainant

## VERSUS

- 1. Amazon Seller Services Pvt. Ltd., Brigade Gateway, 8<sup>th</sup> Floor, 26/1, Dr.Rajkumar Road Malleshwaram (West), Bangalore-560055, through its authorized representative.
- 2. Amazon Seller Services Pvt. Ltd., Jukkre, Shed No.B1, Nanubhai Ni Wadi, Jahangir Puragam, Surat, Gujrat-395005, through its authorized representative.

... Opposite Parties

CORAM : PAWANJIT SINGH PRESIDENT SURJEET KAUR MEMBER SURESH KUMAR SARDANA MEMBER

ARGUED BY : Sh.Mohit Kumar, Counsel for Complainant.

Sh.Atul Goyal, Counsel for OP No.1.

: OP No.2 ex-parte.

## Per Surjeet kaur, Member

1. Averments are that the complainant had purchased Telescope from OP No.2 and paid the amount of Rs.4,499/- (Annexure C-1). The product in question was delivered by OPs delivery agent against the said invoice date 07.07.2021. When complainant opened the said parcel delivered by OPs agent and it was found that the telescope which was delivered was technical defect and it did not work properly and immediately complainant through the OPs mobile application made a request to replace the said telescope and OP No.1 accepted the replacement order of the above telescope and the return agent of OPs took back the above defective telescope from complainant. Thereafter OP No.1 delivered another telescope in replacement on 15.07.2021 (Annexure C-3).

When complainant opened the parcel so delivered by OPs agent in replacement, again complainant found that the replaced telescope was also having physical defects and it did not work properly and complainant on the same day again made a request through OPs mobile application for replacement of the said telescope or to

about:blank 1/3

8/5/23, 12:23 AM Daily Order

refund the amount of the telescope Rs.4499/- paid by the complainant. The complainant also contacted OPs customer care and no satisfactory reply was given to complainant for this defect and OP No.1 kept on delaying the matter on one pretext or the other (Annexure C-5). The complainant many times requested OPs either to replace the same or return the amount of Rs.4999/- to complainant, but OPs neither replaced the product in question nor returned the amount of Rs.4999/- to complainant and kept on delaying the matter on one pretext or the other. The complainant sent a legal notice to the OPs on 9.9.2021 (Annexure C-7). Hence is the present consumer complaint.

- 2. OP No.1 contested the consumer complaint, filed its written reply and stated that the instant order and replacement order was sealed, packed and shipped to complainant by the Independent third-party seller i.e., OP No.2. Therefore, liability, if any, with respect to the alleged defect in the product and/or replacement product can only be fastened upon the seller i.e., OP No.2. It is further submitted that the OP No.1 does not provide any after sales service in relation to any product listed on its e-commerce marketplace by any seller. It is also submitted that the complainant's allegation regarding the defects with the product can only be attributed to the manufacturer and/or seller of the product/OP No.2 and not OP No.1. On these lines, the case is sought to be defended by OP No.1.
- 3. Notice of the complaint was sent to OP No.2 seeking its version of the case. However, nobody appeared on behalf of OP No.2 despite following proper procedure, therefore it was proceeded ex-parte on 09.05.2022.
- 4. Rejoinder was filed and averments made in the consumer complaint were reiterated.
- 5. Parties led evidence by way of affidavits and documents.
- 6. We have heard the learned counsel for the parties and gone through the record of the case.
- 7. The case of the complainant is that he purchased one Telescope from OP No.2 on 07.07.2021. After spending an amount of Rs.4999/-, the same was got replaced by the complainant due to certain defect in it. But as per the case of the complainant, again some problem product in question and again return request was initiated, but the product was never picked up by OPs for replacement which is having certain inherent defect and lying with the complainant.
- 8. The stand taken by the OP No.1 is that, it is a mere online platform and not the seller. Hence, there is no deficiency in service on its part and present complaint deserves to be dismissed.
- 9. Significantly, OP No.2 did not appear to contest the claim of the complainant and preferred to proceed against ex-parte. This act of the OP No.2 draws an adverse inference against it. The non-appearance of the OP No.2 shows that it has nothing to say in its defence against the allegations made by the complainant. Therefore, the assertions of the complainant go unrebutted and uncontroverted.
- 10. After going through the documents on record, it is abundantly clear that the product in question was just of the substandard quality, so the complainant being unsatisfied requested for the return/refund which was not honoured by the OPs. Hence, the act of OPs for supplying/selling substandard product, thereafter non-providing after sale services proves deficiency in services on their part and their indulgence in unfair trade practice.
- 11. In view of the above discussion, the present consumer complaint succeeds and the same is accordingly partly allowed. OPs are directed as under:-
- i. To refund amount of ₹4999/- to the complainant along with interest @ 9% per annum from the date of filing of this complaint till realization. The complainant shall, however, return the Telescope in question to the OPs.
- ii. to pay an amount of ₹2500/- to the complainant as compensation for causing mental agony and harassment to him;
- iii. to pay ₹2500 to the complainant as costs of litigation.
- 12. This order be complied with by the OPs within thirty days from the date of receipt of its certified copy, failing which, they shall make the payment of the amounts mentioned at Sr.No.(i) & (ii) above, with interest @ 12% per annum from the date of this order, till realization, apart from compliance of direction at Sr.No.(iii) above.
- 13. Certified copies of this order be sent to the parties free of charge. The file be consigned.

about:blank 2/3

8/5/23, 12:23 AM Daily Order

27/07/2023 Ls Sd/[Pawanjit Singh]
President
Sd/[Surjeet Kaur]
Member
Sd/[Suresh Kumar Sardana]
Member

about:blank 3/3