
(1998) 08 NCDRC CK 0032

In the National Consumer Disputes Redressal Commission

ANEJA OVERSEAS

APPELLANT

Vs

JT. DIRECTOR, GENERAL FOREIGN TRADE

RESPONDENT

Date of Decision : 21-08-1998

Acts Referred:

Citation : 1998 3 CPJ 704

Hon'ble Judges : A.P.Chowdhri , Desh Bandhu J.

Final Decision : Complaint disposed of

Judgement

1. M/s. Aneja Overseas, complainant, is a partnership firm registered with Apparel Export Promotion Council and as per Import Export Policy for the relevant period announced by the Government of India, the Exporters were entitled to Exim Scrip against exports made to Rupee Payment Area and General Currency Areas. During February, 1992, the complainant made exports of F.O.B. value of Rs. 38,69,900/- to Japan and as such became entitled to Exim Scrip of the value of Rs. 11,60,000/-. The complainant made an application dated 29.6.1992 for the issue of the said Exim Scrip of the value already stated enclosing necessary documents and details of exports made by it. It also deposited a sum of Rs. 1,742/- on 28th April, 1992 towards fee for the grant of the Exim Scrip. The complainant was issued token No. 4184. Further according to the complainant, Exim Scrip was required to be issued within 48 hours of the submissions of the application. In fact, the opposite party failed to issue the Exim Scrip despite repeated requests and reminders including personal visits. Ultimately Mr. Ashok Kumar Aneja, partner of the firm personally visited the office of the opposite party and he was informed that the Exim Scrip against his application had already been delivered as far back as 19th November, 1992. The case of the complainant is that he had misplaced the token issued by the opposite party "and the signature regarding delivery of Exim Scrip on the record of the opposite party were forged and the Exim Scrip had not been issued to the complainant or any authorised person at any stage. It is alleged that the Exim Scrip was deliberately and wilfully delivered to some unscrupulous person entirely on account of negligence on the part of the opposite party. As a result of

the above, the complainant had suffered a loss to the tune of Rs. 2,32,000/- being 20% of the total value of the Exim Scrip. The complainant applied for duplicate Exim Scrip on 17.2.1993 and also requested the opposite party to issue instructions to concerned Departments to stop any further transfer of the Imports Licence against the said Exim Scrip. The opposite party cancelled the said Exim Scrip bearing No. 0184210 dated 14.8.1992 by order dated 10.3.1993. The complainant seeks directions to the opposite party to issue duplicate Exim Scrips valuing Rs. 11,60,000/- and pay compensation amounting to Rs. 50,000/- and in the alternative to pay compensation to the complainant to the tune of Rs. 2,82,000/- towards loss suffered by it alongwith interest @ 24% per annum.

2. IN the written version, it was denied that the complainant was covered within the meaning of "consumer" as defined under Consumer Protection Act. It was categorically stated that the Exim Scrip had been issued and delivered to Ashok Kumar Aneja, the partner of the complainant firm under his signature. Duplicate Exim Scrip could not be issued as the Exim Scrip already issued was freely transferable and tracing the original was difficult and time consuming. It was further stated that on receipt of the complaint, an enquiry was ordered and further appropriate action would be taken in the light of the facts established in the enquiry. Objection was also taken that the complaint was bad for non-joinder of Union of INDIA which was a necessary party. It was denied that the Exim Scrip was required to be issued within 48 hours of the application. IN fact, the Exim Scrip had been prepared in due course and was lying in the office of the opposite party since 14.8.1992 but the complainant failed to collect the same during the period 14.8.1992 to 17.4.1993. In the rejoinder, the complainant controverted the averments of the opposite party and reiterated those made in the complaint also.

The complainant filed affidavit of Narendra Singh duly constituted Attorney of the complainant by way of evidence. No affidavit by way of evidence has been filed on behalf of the opposite party.

3. WE have heard Mr. L.N. Sharma, Advocate for the complainant and Mr. R.V. Sinha for the opposite party and have carefully gone through the records. The crucial question arising for consideration is whether the signature of Mr. Ashok Kumar Aneja appearing on the Authority Letter dated 19,11.1992 is genuine or forged? The letter was filed with the written statement of the opposite party. It is typed on the printed Letter Head of the complainant and by the said letter one Mr. L.N. Sharma was authorised to submit application for the grant of Exim Scrip, to collect back the Exim Scrip application with objections, if any, as well as to collect the Exim Scrip against the application submitted by him on behalf of the complainant. The signatures of Mr. L.N. Sharma purported to be attested by Mr. A.K. Aneja, partner of the complainant firm. The Authority Letter also bears a photograph apparently of Mr. L.N. Sharma. It further appears that the application for the grant of Exim Scrip was made by the complainant through the said Mr. L.N. Sharma on the basis of the Authority Letter and it was on the same letter

that Mr. Ashok Kumar Aneja purported to have received the Exim Scrip on 19.11.1992. Though it has not been stated by the opposite party, token issued to the complainant appears to be in possession of the opposite party. The case pleaded on behalf of the complainant, however, is that the said token was not traceable. The question whether the disputed signatures are that of Mr. Ashok Kumar Aneja, partner of the complainant or not is a disputed question of fact which is required to be decided after the parties have produced their respective evidence including testimony of experts and the witnesses are duly examined and cross- examined. That exercise cannot be undertaken in summary proceedings before us.

4. WE, therefore, relegate the complainant to its remedy in the Civil Court. The observations appearing in this order are not intended to express any final view of the matter and will cause no prejudice to either side. The complaint is disposed of in these terms with no order as to costs. A copy of the order be conveyed to the parties. Complaint disposed of.