**(2001) 05 NCDRC CK 0003**

**In the National Consumer Disputes Redressal Commission**

CANARA BANK APPELLANT

Vs

AHUJA TRADERS RESPONDENT

**Date of Decision :** 31-05-2001

**Acts Referred:**

**Citation :** 2001 3 CPJ 2

**Hon'ble Judges :** D.P.WADHWA , C.L.CHAUDHRY , J.K.MEHRA , B.K.TAIMNI J.

## Judgement

1. THIS is an appeal filed against the order of the State Consumer Disputes Redressal Commission, Delhi, awarding a sum of Rs. 43,600/ - with interest at the rate of 18% p.a. w.e.f. 16th January, 1991 till the date of payment with costs of Rs. 1,500/ -. Briefly stating the facts of the case are that the respondent is an exporter of goods to various countries and he had submitted two bills of exchange drawn by them on M/s. Tiru Garment Industries, Khatmandu, for a sum of Rs. 1,78,947/ - and the other for Rs. 6,24,541.72 respectively. These bills were submitted to the appellants for collection on 26th September, 1988 against letters of credit opened by Rashtriya Banijya Bank Ltd., Kathmandu, Nepal on behalf of the drawees of the bills. According to the respondents it was contended that normally, the payment against such bills were received within two weeks or so from the date of their submission for collection. The amount equal to the bills in question was credited to the account of the respondent/complainant on 9th December, 1988. However, on 15th January, 1990, the appellant informed the respondent that the proceeds of the said bills were received by them actually on 29th March, 1989 whereas the credit for the said amounts had been given in their account on 9th December, 1988 and the amount had already been enjoyed by the respondents. The appellant Bank consequently debited the account of the respondents with Rs. 43,587.10 being interest on the said amounts from 9th December, 1989 to 28th March, 1989. The respondent had filed the complaint alleging that the Bank could not debit that amount and they were liable to refund it to the respondent with interest at the rate of 30% p.a. with quarterly rests and pay Rs.

2. ,50,000/ - AS damages. 2. The appellant contested the cASe and pointed out that the amount wAS actually received on 29th March, 1989 and the said amount of Rs. 8,03,488.71 should have been credited to the complainants account on that date only whereAS the credit wAS through oversight given on 9th December, 1988, which means that this amount remained available to the respondent in their account and they utilised it. It may be noticed that the bills were received by the appellant for collection. It wAS not the cASe of bills being purchASed AS distinct from receiving the bills on collection bASis which means credit could be legitimately given only after the amount hAS been collected. The State Commission, in our opinion, hAS erred in reaching the conclusion that ''if they had received the amount from the City Bank in March, 1988, they should have informed the complainant immediately and told them, that the amount of Rs. 8 lakh and odd had been deposited in their account on account of temporary advance, but it wAS not done. This further shows that the plea now taken by the opposite party is false''. The State Commission hAS bASed its conclusion on telex message from the Banijya Bank, Nepal to Citi Bank, New Delhi, dated 25th November, 1988, directing it to pay the said amount, and the letter of confirmation sent by the Banijya Bank, Nepal to the Citi Bank with a copy to the opposite party, but the State Commission hAS totally ignored the plea of the Bank that the amount wAS actually received from the Citi Bank only on 29th March, 1989. The State Commission hAS also not adverted to the Annexure R -1 to the Affidavit by way of evidence of one Mr. G.U. Kamath, Senior Manager of the appellant Bank. In this context it will be appropriate to reproduce the said letter dated April 13, 1989 written by Citi Bank to the Manager, Canara Bank. That letter reads AS under : ''April 13, 1989 The Manager, Canara Bank, Okhla (Plot No. 8, Kalkaji) New Delhi. Dear Sir, Re : Remittance of Rs. 8,03,238.71 received from RAShtriya Banijya Bank, Kathmandu - Your letter No. BAABABRBATTKMA: 89 dated 27.3.1989. With reference to your captioned letter we wish to advise you that the arrangement we have with the RAShtriya Banijya Bank is to debit their account and make payment to the beneficiary only upon receipt of their authenticated telex message. In this cASe we debited their account only on March 21, 1989 and made the payment to our the same day vide our Managers Cheque No. 21428 for Rs. 8,03,238.71 after deducting our charges of Rs. 250.00. As such there is no question of our paying any interest to you. If you have any interest claim, pleASe correspond directly with RAShtriya Banijya Bank for settlement. Very truly yours, Sd/ - Ravi Gupta, Asstt. Manager.''

In this letter which appears to be in reply to the appellants letter dated 27.3.1989, the Citi Bank hAS confirmed having debited the account of the RAShtriya Banijya Bank, Nepal on March 21, 1989 and having made the payment to the respondent Bank vide their cheque thereafter. The State Commission failed to observe distinction between the bill purchASe facility and accepting bills from customers on collection bASis only. In the later cASe, the Bank hAS no liability to credit the account of the customer prior to its receipt of the proceeds of the bills sent for collection. In the aforesaid letter of City Bank the reASon for non -

 

payment of bills are clearly spelt out and if there wAS any cause of action in favour of the respondent, it wAS against the Citi Bank and for the RAShtriya Banijya Bank, Nepal, none of whom are parties to the proceedings. The State Commission hAS totally ignored this important piece of evidence being document R -1 which wAS there on its record. As per that document on the petitioners own showing the payment wAS received on 21.3.1989. Therefore, the question of debiting interest upto 28.3.1989 could not arise. Therefore, interest for 8 days i.e., 21st March to 28th March, 1989 hAS been wrongly charged and must be refunded together with interest thereon calculated AS per orders of the State Commission to the respondent -complainant. In the light of this position, the impugned judgment cannot be sustained in toto and hAS to be modified to the extent that out of Rs. 43,587.10, the sum equal to interest for eight days i.e., from 21.3.1989 to 28.3.1989 hAS to be reduced and be refunded with interest thereon AS ordered by the State Commission. In the result, the impugned judgment is modified to the extent aforesaid and the complaint is allowed only to the limited extent AS indicated above. In the facts of the cASe the parties are left to bear their own costs. Appeal partly allowed.