(1999) 11 NCDRC CK 0079

In the National Consumer Disputes Redressal Commission

DIRECTOR GENERAL (INVESTIGATION AND REGISTRATION) APPELLANT

Vs

ROSS MURARKA FINANCE LTD. RESPONDENT

Date of Decision : 04-11-1999

Acts Referred:

Citation : 2000 1 CPJ 19

Hon'ble Judges : R.K.Anand , Moksh Mahajan J.

Final Decision : Enquiry discharged

Judgement

1. A complaint was made by Shri Sewa Singh that he and his wife, Smt. Rajinder Juneja made fixed deposits in response to an advertisement inviting deposits by the respondent, M/s. Ross Murarka Finance Ltd. The deposits of maturity value of Rs. 10,000/- Rs. 32,110/- and Rs. 36,380/- were due for payment to the applicant/complainant and his wife on 20.3.1990, 25.4.1990 and 27.4.1990 respectively but payments were actually made on15.5.1992, 9.12.1991 and 9.12.1991 respectively. It may be mentioned here that advance cheques of the amounts on maturity were issued to the applicant/complainant and his wife but the same were lost or misplaced by them while they shifted their residence. An intimation to this effect was given to the respondent on 3.7.1990 with the request that duplicate/new cheques may be issued. It has been complained that the applicant/complainant had to visit the respondent''s office in Bombay for collecting the cheques and incurred an expenditure of Rs. 3,500/- on to and fro fare. The complaint was sent to Director (Research) for investigation and submission of PIR. On the basis of the PIR an enquiry for unfair trade practices was instituted and a Notice of Enquiry was issued to the respondent.

2. THE case of the DG is that delay on the part of the respondent in sending duplicate refund advice is tantamount to unfair trade practices and therefore a cease and desist order may be passed and the applicant/complainant may be compensated and interest for the period of delay @ 17% and also an amount of Rs. 3,500/- spent by the applicant/complainant on his trip to Bombay may be awarded. In its reply the respondent has clarified that there was no inordinate

delay on the part of the respondent in making refund of the amounts which became due on maturity and advance cheques had already been given to the applicant/complainant and could have been encashed on the due dates. As cheques were misplaced or lost by the applicant/complainant duplicate refund advice/cheques could be issued only after due verification from the Bank that the advance cheques issued earlier had not been encashed.

It is not denied by the applicant/complainant that full payment of the amounts on maturity has been made. The only grievance of the applicant/complainant is that the respondent delayed the payment by nearly two years and, therefore, interest @ 17% for that period of delay should be paid. From the perusal of the PIR and the reply of the respondent, it is evident that there was no mala fide on the part of the respondent and delay was not deliberate or caused by dishonest intention of avoiding payment or refund. There is no evidence to the effect that there was mala fide on the part of the respondent and, therefore, we are of the view that no case of unfair trade practices has been established. On the other hand, it appears that it is due to applicant/complainant''s negligence that the cheques were misplaced or lost and could not be encashed on the due dates. As no case of unfair trade practice has been proved, no cease and desist order is required to be passed in this enquiry nor is the complainant and his wife entitled to any compensation by way of interest and the amount of Rs. 3,500/-. The Notice of Enquiry is accordingly discharged with no order as to costs on the facts and in the circumstances of the case. Enquiry discharged.