
(2001) 09 NCDRC CK 0060

In the National Consumer Disputes Redressal Commission

Director (Research)

APPELLANT

Vs

POWER PACKER SYSTEMS

RESPONDENT

Date of Decision : 14-09-2001

Acts Referred:

Citation : 2002 3 CPJ 94

Hon'ble Judges : C.M.Nayar , R.L.Sudhir J.

Final Decision : Complaint dismissed

Judgement

1. THE Notice of Enquiry was issued to the respondent under Section 36B(d) and Section 36D of the Monopolies and Restrictive Trade Practices Act, 1969 (the Act hereinafter) on a complaint dated 20.10.1996 received from one Mr. Arun Awasthi which may be referred to as below : "...1. Sir, I am a medium class family employed and working in a private company from the last five years. From my own earnings and savings I am interested to purchase a RXG 135 cc Yamaha motorcycle but due to misleading advertisement being released and announced by Bajaj Auto Two Wheelers Dealers has confused me and I am unable to decide which motorcycle I should purchase. I am enclosing herewith photocopies of Newspaper wherein you will find that M/s. Bajaj Auto Ltd. Two wheelers dealers at various places at Delhi have announced one Pager Free with purchase of any two wheelers of Bajaj Auto Ltd. at Delhi. I am enclosing herewith newspaper of announcement, the scheme is available with effect from 24.10.1996 to 10.11.1996.

2. I am enclosing herewith photocopy of newspaper Punjab Kesri wherein M/s. Power Pack Systems, A-40, Vasant Marg, Vasant Vihar, New Delhi, 6113901, 6119517, 6117528 First they announce Diwali Bonanza Free Video Game Rs. 2,750/- on 17.10.1996 and this Scheme Offer is available at Many Bajaj Auto Dealers at Delhi. I am enclosing herewith photocopy of newspaper Punjab Kesri wherein M/s. Power Pack Systems, A-40, Vasant Vihar, New Delhi Telephone No. 6113901, 6119517, 6117528 announced a scheme and they offer in their first announcement Diwali Bananza Free Video Game Worth Rs. 2,750/- with

purchase of Yamaha RXG motorcycle and second time they announced Diwali Bonanza Free T.V. Video Game. You will find from the above that these offers are creating confusion in customers' mind and it indicates that there is manipulation in the price as Bajaj Auto Ltd. offering Pager which costs Rs. 7,000/- or more and in Yamaha RXG Video game worth Rs. 2,750/-. Sir, I am submitting this letter personally to your office with a request to investigate the matter as these are very much confusing advertisements being made to mislead the customers." 2. The Notice of Enquiry issued against M/s. Bajaj Auto Ltd. was dropped vide this Commission's order dated 9th January, 1998 which reads as under : "...Director (Research), Shri R.P. Bagaria says that he had recommended to issue the notice only against R-2. In our opinion Bajaj Auto Ltd., Pune may not be a necessary party. The office is directed to look into the order of this Commission and take appropriate action at the time of issue of fresh NOE..."

Accordingly, the enquiry was conducted against M/s. Power Pack Systems. The advertisement relating to Yamaha motorcycle was inserted by M/s. Power Pack Systems which reads as below : "DIWALI BONANZA FREE VIDEO GAME WORTH Rs. 2,750/- YAMAHA RXG 138 cc E A S Y FINANCE AVAILABLE POWERPACK SYSTEMS A-40, Vasant Marg, Vasant Vihar, NEW DELHI PH : 6113901, 6119517, 6117528, 6143675"

3. The learned Counsel for Director (Research) has stated that the complainant has neither appeared in the matter nor tendered his affidavit by way of evidence. The respondent is only a dealer of Yamaha motorcycles and it is nowhere proved that the price increase, if any, related to the scheme which has been advertised as referred to in the complaint. It has also not been shown that the cost of gift is intended to be included in the price of the motorcycle. The interpretation of judgment reported as IV (1998) SLT 182=1998 CTJ 249 (Supreme Court) in the matter of HMM Ltd. v. Director General, Monopolies and Restrictive Trade Practices Commission, fully covers the issue in question wherein it has been held that if the Gift Scheme does not cause any loss or injury either to the public or to the consumer there is no necessity for striking down the same. Moreover, the scheme was operated from the period 4.10.1996 to 31.12.1996 and is no longer in operation. In view of the aforesaid reasons the present complaint is dismissed and the Notice of Enquiry is discharged. Complaint dismissed.