

(2004) 03 NCDRC CK 0082

In the National Consumer Disputes Redressal Commission

EON INFOTECH LIMITED

APPELLANT

Vs

SUB-DIVISIONAL OFFICER, U.T. ELECTRICITY DEPARTMENT

RESPONDENT

Date of Decision : 02-03-2004

Acts Referred:

Citation : 2004 3 CPJ 359

Hon'ble Judges : K.K.Srivastava , Devinderjit Dhatt , MajGenS.P.Kapoor J.

Final Decision : Appeal dismissed

Judgement

1. THIS is an appeal filed against order dated 23.1.2004 passed by District Consumer Disputes Redressal Forum-II, U.T., Chandigarh (for short hereinafter referred to as the District Forum) in Complaint Case No. 74 of 2004 vide which the complaint has been dismissed for lack of jurisdiction on the ground that the appellant/complainant was not a consumer under the definition of "consumer" as mentioned in Section 2(1)(d) of the Consumer Protection Act, 1986 (for short hereinafter referred to as the C.P. Act). The District Forum after perusing the record and hearing the learned Counsel for the complainant mentioned in Para 4 of the impugned order, inter alia, as under: "4. The complainant is a limited company engaged in the business of Information Technology and the related business. The electricity is being consumed by it in their office or allied installation (if any) again in connection with their business. Therefore, even on the face of it, the complainant has hired or availed of the services of the O.P. for commercial purpose. The present case is not covered under the exception to Section 2(1)(d) of the Consumer Protection Act, 1986 relating to the definition of a consumer. Therefore, even on the face of the allegations contained in the complaint M/s. EON Infotech Ltd., Chandigarh (complainant company) is not a consumer as defined under Section 2(1)(d) of the Consumer Protection Act, 1986..... "

2. THE learned Counsel for the appellant contended that the complainant was not engaged in any business of either manufacturing or selling any item from any raw material and is not earning profits therefrom and is thus not engaged in any

commercial activity. THE submission of the learned Counsel for appellant, in our considered opinion, has no merit inasmuch as the appellant is a limited company, which is engaged in the business of Information Technology and the other related business. It is in connection with the running of the said business that electricity is being consumed, which is obviously for commercial purpose. THE case of the appellant/complainant is not covered by the explanation appended to Section 2(1)(d) of the C.P. Act, which saves a person as a consumer who though engaged in a business for commercial purpose yet is doing so far earning livelihood by means of his self-employment. The case law relied on before the District Forum and reported in the case of "M/s. Sarat Equipments v. Interuniversity Consortium," III (1997) CPJ 54 (NC)=1998 (1) CON.LT 191 (NC) is clearly not applicable to the facts of the instant case and the District Forum has rightly held that the Hon"ble National Consumer Disputes Redressal Commission, New Delhi had held that the equipment in the case of M/s. Sarat Equipments (supra) was purchased for being attached to some other system purchased for the service of education and research. The appellant is having an electricity connection in connection with the purpose of imparting education and in the business of Information Technology and other related business.

Under the amended provisions of the C.P. Act, the commercial purpose has been excluded under both the clauses i.e., 2(1)(d)(i) and (ii). The case of "Laxmi Engineering Works v. P.S.G. Industrial Institute, II (1995) CPJ 1 (SC), was decided on 4.4.1995 whereas the amendment in the C.P. Act was enforced w.e.f 15.3.2003 and the case of commercial purpose was excluded from Clause (ii) of Section 2(1)(d) of the C.P. Act as well.

3. THE District Forum has thus rightly held that the appellant is not a consumer and the complaint was not maintainable. THERE is no merit in this appeal, which is dismissed in limine. Copies of this order be sent to the parties free of charge. Appeal dismissed.