

(1998) 04 NCDRC CK 0023

In the National Consumer Disputes Redressal Commission

H.C.L. LTD.

APPELLANT

Vs

KHANDELWAL BROTHERS

RESPONDENT

Date of Decision : 01-04-1998

Acts Referred:

Citation : 1998 2 CPC 47 : 1998 2 CPJ 241

Hon'ble Judges : K.C.Bhargava , Banarsi Das J.

Final Decision : Revision Petition allowed

Judgement

1. THIS is a revision against the order dated 28.5.1997 passed in Complaint No. 31 of 1997 by District Forum, Jhansi. Learned Counsel for the revisionist, Mr. V.P. Sharma as well as the Counsel for the opposite party Mr. Rakesh Kumar Gupta have been heard.

2. ACCORDING to the learned Counsel for the revisionist, the opposite party is not a consumer as defined in Section 2(1)(d)(i). ACCORDING to the learned Counsel for the revisionist, the order itself and the complaint filed by the opposite party goes to show that he is a dealer of the articles manufactured by the revisionist. In para one of the complaint, copy of which is on record, it has been alleged that the complainant is a trader and he supplies items of opposite party. He is a dealer of the opposite party from the last about three years. He is dealer of photo-copier and other articles. ACCORDING to the allegation of the complainant, he obtained these goods from the opposite party H.C.L. Ltd. for resale. A perusal of definition of consumer given in the above mentioned section, clearly shows that the complainant is not a consumer. The last words of this section show that a consumer will not be a person who obtains such goods for resale or for any other commercial purpose. In the present case there is specific allegation of the complainant that he is a dealer of goods manufactured by H.C.L. Ltd. and resales to other persons and is running a commercial Enterprises. Thus the case of the complainant is governed by the provisions of Section 2(1)(d)(i) of the Consumer Protection Act. The complainant could not have filed a complaint before the District Forum and the District Forum has no jurisdiction to entertain

and decide the same.

The revision is, therefore, allowed and the complaint filed by the complainant before the District Forum, Jhansi in Complaint No. 31 of 1997 is dismissed as not maintainable, and the order dated 28.5.1997 passed by the District Forum is quashed. There will be no order as to costs.

3. LET the complainant may approach the competent Forum for redressal of his grievance. Revision Petition allowed.