
(1993) 11 NCDRC CK 0034

In the National Consumer Disputes Redressal Commission

INDIAN INSTITUTE OF PORT MANAGEMENT

APPELLANT

Vs

ZENEITH COMPUTER LIMITED

RESPONDENT

Date of Decision : 23-11-1993

Acts Referred:

Citation : 1994 1 CPJ 392 : 1994 2 CPR 481

Hon'ble Judges : Jyotirmoyee Nag , Sunil Kanti Kar , S.Dutta J.

Final Decision : Complaint dismissed

Judgement

1. THE case of the complainant is that it purchased a computer machine from the No. 1 on 9/8/1989 for a consideration at Rs. 4,25,000.00. It was installed on 11.12.1990 and warranty period expired on 11/12/1991. It is alleged that it started to give trouble on various ways for which many correspondences were made between the parties but no fruitful result was obtained out of that and the complainant/petitioner prayed for reliefs in terms of the prayer mentioned in the petition of complaint.

2. THE Opposite Parties have denied all material allegations raised in the petition of complaint and contended that the computer machine had been running since installation and from the reports dated 10/12/1990 and 18/8/1992 it will be clear that there were no mechanical or technical defects in the computer machine. It was further contended that the petitioner/complainant did not enter into an agreement for servicing of the computer machine for which if there be any defects during the running of the computer machine after expiry of warranty period the Opposite Parties could not be held liable. The Opposite Parties very strenuously argued that the petition of complaint is not maintainable before the Consumer Redressal Forum in as much as that the complainant/ petitioner is not a consumer as defined under the Consumer Protection Act and computer machine bought by the complainant is meant for commercial purpose. The Opposite Parties accordingly prayed for dismissal of the petition of complaint.

Without entering into the merits of the case we can confine ourselves into the question of maintainability of the petition of complaint before the Consumer

Dispute Redressal Forum.

3. THE complainant/petitioner purchased the computer machine to be used in a commercial house for commercial purpose. THE National Commission in the case of M/s. Lahia Starlinger Limited v. Zeneith Computer Limited reported in I (1991) CPJ 145 (NC)=1991(1) CPR 389 decided that Consumer under the Consumer Protection Act does not include a person who purchases goods for consideration for resale or any commercial purpose. THE fact of the said case M/s. Lahia Starlinger Limited (supra) is that the complainant filed a petition of complaint alleging a faulty imperfect computer system having short comings in quality potential and standard. Accordingly the complainant in the said case claimed for damages but as the computer system was purchased by the complainant for being installed and used by the company it formed part of the assets in the balance sheet of the company and the cost of maintenance, operation and depreciation of computer were charged to the profit and loss account of the complainant company, it was held that the computer system was purchased by the complainant for commercial purposes and complainant was not consumer. Accordingly it was held that the complaint was not maintainable before the Commission. The fact of the present case is similar circumstanced to that of the case of Lahia Starlinger Limited (supra).

4. WE, therefore, hold that the complainant is not a consumer as per provision of the Consumers Protection Act as such the petition of complaint is dismissed on contest without cost. Complaint dismissed.