**(2007) 03 NCDRC CK 0062**

**In the National Consumer Disputes Redressal Commission**

M P STATE INDUSTRIAL DEVELOPMENT CORPO — APPELLANT

Vs

BUREAU OF INDIAN STANDARDS — RESPONDENT

**Date of Decision :** 05-03-2007

**Acts Referred:**

**Citation :** 2007 2 CPR 17 : 2007 3 CPJ 109

**Hon'ble Judges :** K.S.Gupta , P.D.Shenoy J.

**Advocate :** Jose Chiramel , Navin Sharma

## Judgement

1. IN this appeal, challenge is to the order dated 23. 12. 2006 of M. P. State Consumer Disputes Redressal Commission, Bhopal allowing complaint filed by the Bureau of Indian Standards-respondent No. 1 with direction to the appellant to pay amount of Rs. 99,36,000 to respondent No. 1 and in the event of this amount not being paid within three months it was to carry interest @ 9% p. a.

2. FACTS giving rise to this appeal lie in narrow compass. Respondent No. 1/ complainant in July, 2001 invested a total sum of Rs. 3,45,00,000 in non-convertible redeemable bonds numbering 345 of the face value of Rs. 1,00,000 each with the appellant/opposite party No. 1. Bonds were redeemable at the end of five years and were to carry interest @ 14. 40% per annum payable half yearly i. e. , on 1st May and 1st November of each year. On interest for the period from 1. 11. 2001 to 31. 10. 2003 amounting to Rs. 99,36,000 not being paid by the appellant, complaint alleging deficiency in service was filed by the complainant which was contested by the appellant and respondent No. 2/ opposite party No. 2. Since, respondent No. 2 has been exonerated of the liability to pay interest by the State Commission, only the pleas raised in written version by the appellant need be noticed. Issuance of bonds of Rs. 3,45,00,000 and liability to pay interest thereon were not disputed. However, it was pleaded that investment in bonds by respondent No. 1 was made for commercial purpose and respondent No. 1 was, thus not a consumer and complaint not maintainable under the Consumer Protection Act, 1986 (for short the ''act'' ). Mr. Naveen Sharma for appellant has challenged the correctness of State Commission''s

order on ground of investment in bonds having been made by respondent No. 1 for commercial purpose and complaint, thus, not being maintainable under the Act. Reliance was also placed on the decision in Sree Anantha Grameena Bank v. Industrial Finance Corporation of India Ltd. , IV (2005) CPJ 10 (NC ). While supporting the order under challenge Mr. Jose Chiramel for respondent No. 1 has relied upon particularly the decision in Laxmi Engineering Works Ltd. v. P. S. G. Industrial Institute, II (1995) CPJ 1 (SC ). Preamble to the Bureau of Indian Standard Act, 1986 under which the respondent No. 1 was constituted and some of the functions enumerated in Section 10 (i) thereof which have also been taken note of by the State Commission need to be referred here. Preamble of the Act reads thus-''an Act to provide for the establishment of a Bureau for the harmonious development of the activities of standardization, marking and quality certification of goods and for matters connected therewith or incidental thereto. " clauses (c) and (i) of Section 10 (1) provide : "the Bureau may exercise such powers and perform such duties as may be assigned to it by or under this Act and, in particular, such powers include the power to- (c) specify a Standard Mark to be called the Bureau of Indian Standards Certification Mark which shall be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard. (i) undertake research for the formulation of Indian Standards in the interest of consumers and manufacturers".

Word "commercial Purpose" has not been defined in the Act and is a question to be decided on the facts of each case. From aforesaid Preamble and Clauses (c) and (i) it is manifest that respondent No. 1 is neither a commercial organization nor carrying on any commercial activity and its main function is to undertake research for the formation of Indian Standards in the interest of consumers and manufacturers and specify Indian Standards Certification Marks. In the case of Neela Vasant Raje v. Amogh Industries and Anr. , III (1993) CPJ 261 (NC)=1986-95 Consumer 446, this Commission with reference to Section 2 (1) (d) of the Act had taken the view that where a company or firm invites deposits from the public for the purpose of obtaining money on promise of giving attractive rate of interest the transaction of such a nature would make the depositor a ''consumer'' under the Act of 1986. We are in agreement with the view taken by State Commission that the service of the appellant hired by respondent No. 1, was not hit by the amendment Act of 2002 which became operative from 15. 3. 2003. Sree Anantha Grameena Bank''s case (supra) being distinguishable on facts, has no applicability to the facts of present case. There is, thus, no legal infirmity in the order of State Commission warranting interference under Section 21 (a) (ii) of the Act.

3. CONSEQUENTLY, appeal is dismissed with cost of Rs. 15,000 to respondent No. 1. Appeal dismissed.