(1994) 11 NCDRC CK 0026

In the National Consumer Disputes Redressal Commission

PREM G's. INTERNATIONAL APPELLANT

Vs

Central Bank of India RESPONDENT

Date of Decision : 30-11-1994

Acts Referred:

Citation : 1995 2 CPJ 222

Hon'ble Judges : R.N.Mittal , S.Brar J.

Advocate : D.K.Mehta

Judgement

1. -BRIEFLY, the facts are that the complainant is a Private Trust and Shri T.S. Sawhney is its Managing Trustee (M.T.). The Trust is carrying on business of exporting Readymade Garments. They opened a current account with the opposite party (O.P.) in 1979. Mr. T.S. Sawhney had been operating the account since the day of the opening till 26th August, 1991 when the opposite party stopped its operation by him. An amount of Rs. 6,02,848.13Ps. was lying in the account of that time. It is pleaded that the amount has not been paid till date inspite of repeated requests and thus the complainant has been deprived of its use. Consequently, they prayed that they should be given interest @ 24% p.a. and damages.

2. THE complaint has been contested by the O.P. THEy inter-alia pleaded that some formalities had not been completed at the time of opening of the account which came to their notice in 1991, when pointed out by the auditor of the Bank. THEy further pleaded that unless the formalities were completed, it was not possible for them to pay the amount. We have heard Mr. T.S. Sawhney, (M.T.) and the learned Counsel for the opposite party. It is not disputed that Mr. T.S. Sawhney had been operating the account for a period of about 12 years. The Counsel for the respondent has not referred to any letter of any trustee informing the O.P. that Mr. T.S. Sawhney, Managing Trustee, had no right to operate the account and that he had been doing so illegally. It is further relevant to point out that the present complaint has been filed by Mr. T.S. Sawhney and that he has been authorised to file it vide resolution dated 5th August, 92. This

further affirms that the Managing Trustee, was entitled to operate the account. After taking into consideration all the aforesaid circumstances we are of the view that there was deficiency in service on the part of the O.P.

In the above view we are fortified by a decision of the Karnataka State Commission in M/s. Morzaria Charity Trust v. State Bank of India, I (1992) CPJ 348. In that case an account was opened by Managing Trustee of a Trust with the O.P. He after some time wanted to close the account The O.P. asked him to file the resolution of the Board of Trustees, which was not done. Later the Board passed a resolution authorising him to file a complaint before the State Commission. It was held that the Bank was not justified in calling upon him to file a resolution to close the account.

3. WE are also of the view that the complainant is entitled to interest on the said deposit as they have been illegally deprived of its use. In the facts and circumstances of the case we grant interest to the complainant @ 12% p.a. As we have given interest to the complainant at fairly high rate, therefore, we are not inclined to give any further damages. For the aforesaid reasons we accept the complaint with costs and direct the opposite party to pay the amount of Rs. 6,02,848-13Ps. with interest @ 12% p.a. from 26.8.91 till the date of payment within 3 months, failing which action shall be taken against them under Section 27 of the Consumer Protection Act. Costs Rs. 1,000/-. Complaint allowed with costs.