(2006) 05 NCDRC CK 0058

In the National Consumer Disputes Redressal Commission

PREMPREET TEXTILES INDUSTRIES LTD. APPELLANT

Vs

BANK OF BARODA RESPONDENT

Date of Decision : 15-05-2006

Acts Referred:

Citation : 2006 3 CPJ 218

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

Final Decision : Revision Petition dismissed

Judgement

1. IN this revision challenge is to the order dated 1.2.2006 of Consumer Disputes Redressal Commission Gujarat, Ahmedabad allowing appeal against the order dated 15.6.2002 of a District Forum and dismissing the complaint. The District Forum had partly allowed complaint with direction to the respondent/opposite party Bank to pay amount of Rs. 4,50,000 with interest @ 12% p.a. to the petitioner/complainant.

2. PETITIONER company was having C.C. Account No. 9620 with the respondent since June, 1992. This account was mostly operated by Premal Vora, one of the Directors of petitioner company. It was alleged that on or about 30.10.1995 it came to the notice of petitioner that an amount of Rs. 4,50,000 had been withdrawn from the said account on the strength of a bearer cheque drawn in favour of "self" by said Premal Vora. PETITIONER stated that the signature of Premal Vora on the cheque was forged. On said amount of Rs. 4,50,000 not being credited in the said account and/or paid, the petitioner alleging negligence and deficiency in service filed complaint which was contested by the Bank. In the written version it was, inter alia, alleged that on 24.10.1995 the cheque in question was presented on counter for cash payment by a person representing himself to be Ashok B. Gupta along with a letter of petitioner to make payment to him and to give stamped acknowledgement of payment so made by the cashier. This cheque was signed by Premal Vora and also discharged on the reverse by him for and on behalf of company. Since there was no practice of giving such any acknowledgement, said person was advised to inform the

company accordingly. It was further alleged that the said person again visited Bank with Sadanand, a representative of petitioner company who was regularly coming to the Bank for company''s transactions including withdrawal of cash. Cheque introducing Ashok B. Gupta by said Premal Vora on reverse of cheque was again presented for payment. H.M. Desai who was then the in-charge of section passed the cheque as the signatures of the Director were in order as per Bank''s record. Thereafter, payment of the cheque in question was made in cash by the respondent. It was denied that there was any negligence or collusion or deficiency in service on part of respondent Bank in making payment of the cheque. It was pointed out by Mr. Jay Savla whom we have heard on admission, that Haresh T. Gajjar, Hand Writing Expert had opined that the signatures of Premal Vora, Director on the cheque in question were forged and in view of this report the State Commission acted erroneously in setting aside the District Forum''s order and allowing appeal. In our view, what is to be examined in present case is whether due care and caution in verification of the signatures of Premal Vora, Director on the cheque was taken by respondent Bank before making payment thereof?. As may be seen from the stand taken in written version that on re-presentation of cheque for payment, Ashok B. Gupta again visited the respondent Bank accompanied by Sadanand, a representative of petitioner company who had been regularly coming to the Bank for company''s transactions including withdrawing of cash and on the back of cheque said Director had introduced Ashok B. Gupta. It was thereafter that the cheque was passed by H.M. Desai in-charge of the section as signatures of the said Director on the cheque were in order as per bank''s record. It was the duty of the above Director to have ensured that the cheque book was kept under locked key at a safe place. In this backdrop, there was hardly any occasion for the respondent Bank to have doubted the genuineness of the signatures on the cheque in question. If any embezzlement was made by the employee of company the respondent Bank cannot be held responsible for it. Respondent Bank had, thus, been rightly exonerated of the liability arising out of the cheque in question by the State Commission in terms of the aforesaid order dated 1.2.2006 which does not call for any interference in revisional jurisdiction under Section 21(b) of C.P. Act, 1986. Dismissed. Revision Petition dismissed.