

(1991) 05 NCDRC CK 0024

In the National Consumer Disputes Redressal Commission

PROCOLOR PHOTOGRAPHICS PRIVATE LTD.

APPELLANT

Vs

OCL PHOTO INDUSTRIES (P) LTD.

RESPONDENT

Date of Decision : 06-05-1991

Acts Referred:

Citation : 1991 2 CPJ 658 : 1991 2 CPR 621 : 1992 0 CPC 201

Hon'ble Judges : Surinder Singh , Amrit Tewari , Yogeshwar Sahni J.

Final Decision : Complaints dismissed

Judgement

1. THIS complaint and the connected complaint case No. 32 of 1990 have been filed by the same complainant against the same respondents and as the point which we are considering is common, the present order will cover both the complaints.

2. IT is needless to go into intricate details as mentioned in the complaints and controverted in the written statements filed by the respondents. IT is absolutely apparent even from a bare perusal of the complaints that the complainant "is a concern of long standing dealing in photography, sale of photographic goods etc." as stated in para 1 of the complaints. The magnitude of the activity of the complainant firm has also been highlighted in para 2 where it is stated that the company had three OCL-600 Printers and one OCL-1000 Paper Processor functioning in their laboratory. The single two-track Paper Processor processed about 900 prints per hour. The complainant with a view to increase their production placed an order with the respondents for one more OCL-1250 Paper Processor, which would raise the processing capacity of the complainant firm to more than 2500 prints per hour. IT is stated that the price of the machine which was ordered was Rs. 1,89,266.00. The machines in question were supplied by the respondents on 21.12.1987. The grievance of the complainant is that the machine did not work properly and hence the complainant Company suffered loss in the sense that they could not increase their gross turn-over and income accruing therefrom. The complainant made a claim of Rs. 6.15 lakhs in the Complaint Case No. 28 of 1990 and a similar claim of Rs. 8,10,000.00 in

Complaint Case No. 32 of 1990. As already observed, we do not feel the necessity of going into the merits and demerits of the complaint because the complaint deserves to be dismissed on the solitary ground that the claim made by the complainant clearly arises out of commercial transaction between the parties. This fact, as stated above is apparent from the contents of the complaints themselves. By now there is a catena of authorities of the National Commission that when a person obtains goods for commercial purposes, such a person does not fall within the ambit of the word "Consumer". Reference in this connection may be made to the decision of the National Commission in First Appeal No, 22 of 1989 "Synco Textiles Pvt. Ltd., v. Greaves Cotton & Company Ltd" I (1991) CPJ 499 (NC) decided on 6.4.90. Another decision of the National Commission on the same point is original Petition No. 1 of 1988 "M/s Oswal Fine Arts v. M/s H.M.T., Madras"" I (1991) CPJ 330 (NC) decided on 27.4.89. There are many other paralleled decisions of the National Commission on the same point

Apart from the point noticed above, we also feel that for the decision of these complaints a huge amount of evidence will be required to be led by the parties and it will be necessary to go into intricacies of accounting between them. A Consumer Tribunal is not an appropriate Forum for making a claim of this type of invoking the summary procedure postulated under the Consumer Protection Act.

3. IN view of the above reasons we dismiss both the complaints with no order as to costs. The complainant will, however, be at liberty to make a claim, in an appropriate court of law, as advised. Complaints dismissed.