**(1996) 05 NCDRC CK 0001**

**In the National Consumer Disputes Redressal Commission**

Quality Foils India Pvt Ltd APPELLANT

Vs

Bank Of Madura Ltd RESPONDENT

**Date of Decision :** 30-05-1996

**Acts Referred:**

**Citation :** 1996 2 CLT 429 : 1996 2 CPC 55 : 1996 2 CPJ 103 : 1996 2 CPR 26

**Hon'ble Judges :** V.BALAKRISHNA ERADI , B.S.YADAV , S.S.CHADHA , R.THAMARAJAKSHI J.

# Judgement

1. THIS First Appeal by M/s. Quality Foils India Pvt. Ltd. is directed against the Order dated 5.11.93 of the Haryana State Consumer Disputes Redressal Commission at Chandigarh holding that the complaint is not cognizable by that Commission and the same was returned to the complainant for presentation to the appropriate District Forum.

2. THE brief facts alleged in the complaint are these. Appellant is a manufacturer of stainless steel strips at Hissar and entered into a contract with M/s. Neeka Tube Ltd., opposite party No. 2 for the supply of stainless steel strips of the value of about Rs. 19.00 lakhs. In pursuance of the said contract, the Bank of Madura the first opposite party at the request of the second opposite party issued a Letter of Credit for the amount of Rs. 19.00 lakhs in favour of the appellant. The said letter of credit No. 17/92 -93 was due to expire on 31st May, 1993. The appellant supplied stainless steel strips worth Rs. 8,16,092.16 on 12.3.93 and the same were duly received by the second opposite party. The appellant further supplied stainless strips of the value of Rs. 8,17,382.50 to the second opposite party on 18.3.93 and the same were duly received by the second opposite party. In both supplies, the issuance Draft drawn under the said letter of credit issued by the first opposite party was duly accepted as payable at the State Bank of Patiala, Hissar by the second opposite party. The second opposite party also signed the respective credit memos for the aforesaid value of steel strips supplied on 12.3.93 and 18.3.93. The appellant in order to obtain payment for the steel strips supplied to the second opposite party under the said Letter of Credit, despatched the requisite documents to the first opposite party through its

Banker, the Abu Dhabi Commercial Bank, Bombay and deposited with the first opposite party before the due date of expiry of the said Letter of Credit. It is unnecessary to notice the correspondence between the appellant and the first opposite party. The first opposite party did not make the payment due to the appellant against the aforesaid supply of stainless steel strips against the said Letter of Credit. Ultimately the first opposite party informed the appellant that since the said Letter of Credit issued in favour of the appellant by the first opposite party had expired on 31st May, 1993, the first opposite party had forfeited its liability to pay to the appellant under the Letter of Credit. Alleging that there was delay and negligence on the part of the opposite parties in making the payment under the said Letter of Credit, the appellant filed a complaint before the Haryana State Commission claiming the following reliefs : ''It is, therefore, respectfully prayed that the Bank of Madura Limited, Ahmedabad respondent No. 1 be ordered to make the payment of Rs. 16,33,474/ - under the Letter of Credit No. 17/92 -93 dated 11.3.93 to the complainant and it is also prayed that the complainant be awarded compensation to the tune of Rs. 3,50,000/ - on account of harassment and mental torture faced by the complainant not receiving the payment in time and on account of deficiency in service and unfair trade practices adopted by respondent No. 1''.

The State Commission has taken the view that the appellant is primarily aggrieved with regard to alleged deficiency in Banking service pertaining to a Letter of Credit issued by the Bank of Madura Limited at Ahmedabad and thus it is a consumer dispute. However, the State Commission came to the conclusion in view of its earlier order in I (1991) CPJ 631, Dr. B.S. Gaba v. Steel Authority of India Ltd. & Anr., that the quantum of relief claimed as compensation in the present complaint does not come within the pecuniary jurisdiction of the State Commission after the recent amendment of the same by the Amending Act, 1993. The view taken in the said case is that ''in short, where in terms a claim of compensation is pleaded in a consumer complaint, then both the value of goods and services and the said claim have to cross the same hurdle of the pecuniary jurisdiction''.

3. WE have heard the learned Counsel for the parties at length and have also gone through the records of this case. The jurisdiction of the Consumer FORA to try a complaint is of three kinds, namely, (i) jurisdiction with reference to the nature of the complaint as to whether it is a consumer dispute or not, (ii) pecuniary jurisdiction, and (iii) territorial jurisdiction. We are concerned in this case with the pecuniary jurisdiction of the State Commission. Section 17 of the Consumer Protection Act, 1986 reads as follows : ''Jurisdiction of the State Commission - Subject to the other provisions of this Act, the State Commission shall have jurisdiction : (a) (i) to entertain complaints where the value of the goods or services and compensation, if any claimed exceeds rupees [five lakhs but does not exceed rupees twenty lakhs]''.

The Act does not specifically lay down as to how a complaint is to be valued for the purpose of jurisdiction. The mode of valuation of civil suit for purposes of jurisdiction is laid down in the Suit Valuation Act, 1987. Generally the amount of the claim or the actual value of the property claimed determine the pecuniary jurisdiction except in certain cases mentioned in the Suit Valuation Act. The jurisdiction of the Civil Court to entertain a suit is to be determined by the allegations made in the plaint and not by the result of the suit. Similarly, the complainant has to make allegations in the complaint that the goods bought by him or agreed to be bought by him suffer from any one or more defects as defined in Section 2(f) or the services hired or availed of or agreed to be hired by him suffer from deficiency as defined in Section 2(g) in any respect. Reference is also invited to the definition of the expressions, complaint, complainant, consumer dispute, goods and services as provided in Section 2 of the Act. When these definitions are considered alongwith the provisions of Section 17(a)(i), it is manifest that it is essential for the complainant to value the goods or services which the opposite party had provided or agreed to be provided as also the compensation, if any, claimed by the complainant because the criteria laid by the statute is ''value''. On that valuation the jurisdiction of the District Forum or the State Commission or the National Commission would depend. It may not be necessary to have a separate paragraph in the complaint as to jurisdiction, but the value of the claim made or the relief must be spelt out from the complaint or from the prayer clause of the complaint.

4. IN our view, where a claim of compensation is pleaded in a consumer complaint, then the total value of the goods and/or services as well as that of compensation would determine the pecuniary limit of jurisdiction. It is the aggregate value of the goods and compensation or the aggregate value of the services as well as that of compensation that determines the pecuniary jurisdiction. As we read the provisions of Section 17(1)(a) [and for that matter the provisions of Section 11(1) and Section 21(a)(i) which are in pari -materia the criteria of the value of goods or services if claimed without any compensation would govern the jurisdiction of the Consumer FORA. Where the complainant gives the value of the goods and compensation or the value of the services and compensation, then the question arises whether each one of them should exceed or cross the hurdle of the pecuniary jurisdiction. In some cases, the value of the goods or the compensation claimed and for that matter the value of the services and the compensation claimed may be such that if considered separately it will fall in the jurisdiction of the District Forum or State Commission whereas if considered on the basis of the aggregate, it may fall within the jurisdiction of National Commission or State Commission. The intention of the Legislature is to give the jurisdiction to the Consumer FORA based on the total ''value'' of the goods and compensation, if any, or in other case the value of the services and compensation if any. Any other interpretation would lead to conflict of jurisdiction. Even though the Legislature has not mentioned the word aggregate before the word value of the goods or services, in the context of provisions of the Act, the intention is clear to give jurisdiction based on the quantum of reliefs put

together, in other words, aggregate of the value of the goods and compensation or aggregate of the value of services and compensation, or on the aggregate value of the goods and services and compensation. Madhya Pradesh State Commission in the case of ''Premier Automobiles Ltd. v. Santosh Kumar'', I (1992) CPJ 218, dissented from the view taken by the Haryana State Commission and held that it is total claim laid which is the criteria for determining valuation. In this case the complainant has prayed that the Bank of Madura Ltd. be ordered to make the payment of Rs. 16,33,474/ - under the Letter of Credit and also claimed award of compensation to the tune of Rs. 3,50,000/ - on account of harassment and mental torture faced by him on account of deficiency in service and unfair trade practice adopted by the opposite parties. For the purposes of considering the pecuniary jurisdiction, the allegations made in the complaint have to be read and accepted. For the purpose of determining the pecuniary jurisdiction, the result of the relief that may ultimately be granted is not to be taken into consideration. The complainant has claimed the reliefs the aggregate value of which comes to Rs. 19,83,474/ - which clearly falls within the jurisdiction of the State Commission.

5. THE appeal is allowed, the order dated 5.11.93 under appeal is set aside and the case is remanded back to the Haryana State Commission for trial of the complaint on the merits in accordance with law. There will be no order as to costs.