(1997) 04 NCDRC CK 0061

In the National Consumer Disputes Redressal Commission

R.S.INDUSTRIES (ROLLING MILLS) LTD. APPELLANT

Vs

BRANCH MANAGER, CENTRAL BANK OF INDIA RESPONDENT

Date of Decision : 07-04-1997

Acts Referred:

Citation : 1997 2 CPJ 560 : 1997 3 CPR 345

Hon'ble Judges : N.C.Sharma , Firoza Bano J.

Final Decision : Complaint allowed with costs

Judgement

1. THIS complaint has been filed by R.S. Industries (Rolling Mills) Ltd. against Branch Manager, Central Bank of India, M.I. Road, Jaipur and Chairman and Chief Manager of the said Bank at Bombay and against KEC International Ltd., Bombay praying that Opposite Parties Nos. 1 to 3 may be directed to pay to the complainant an amount of Rs. 12 lacs plus damages of Rs.l lac for defective services alongwith interest @ 24% p.a. together with cost.

2. OPPOSITE Party No. 4 is KEC International Ltd. at Bombay. OPPOSITE Party No. 4 through Central Bank of India/Central Office/F. Bills Imp. Bombay had opened a Letter of Credit for Rs. 2,02,32,000/- in favour of the complainant vide L.C. Document dated 16.1.96 which was to be negotiated by the Branch Manager, Central Bank of India, M.I. Road, Jaipur being the correspondent of OPPOSITE Party No. 3. One of the terms contained in Clause 6 of the Letter of Credit was that reimbursement can be made by debiting the account of OPPOSITE Party No. 4 with Central Office on due date. The due date was 90 days from the date of delivery of challans. It appears that on 25.1.96 the complainant sent a letter to OPPOSITE Party No. 4 requesting for amendment in the terms of the letter of credit. The amendment sought in the terms are incorpo rated in the said letter. One of the amendment sought was that the words "90 days from the date of delivery challans" may be got substituted by the words "90 days from the date of receipt of invoices". In condition No. 6 mentioned in the Letter of Credit, the amendment sought was that negotiation of document to be done by the corespondent branch i.e. OPPOSITE Party No. 1 and reimbursement be done by

the Central Office on the date of negotiation. OPPOSITE Party No. 3 i.e. Central Bank of India, F. Bills Imp. Bombay sent a letter on 29.1.96 to the complainant as well as OPPOSITE Party No. 4, informing them that at the request of OPPOSITE Party No. 4, the Bank has amended the Letter of Credit. The amendment suggested in the condition No. 6 was accepted that negotiation of documents shall be done by the correspondent branch, namely, Central Bank of India, M.I. Road, Jaipur and reimbursement shall be done by the Central Office on the date of negotiation. Negotiation was made on 30.1.96. It appears that the total value of the invoices was Rs. 1,93,26,005/- which had been negotiated. However, Opposite Party No. 1 with-held a sum of Rs. 12 lacs out of the aforesaid amount of the invoices/The controversy in the complaint raised by the complainant is against the with-holding of this amount of Rs. 12 lacs by Opposite Party No. 1.

The version of Opposite Party Nos 1 to 3 is that according to condition No. 1 due date for payment of bills under the Letter of Credit was 90 days from the receipt of invoice by the Bank. It is admitted that the complainant had presented the bills on 30.1.96 for payment under the Letter of Credit. However,Opposite Party No. 1 had made it clear to the complainant that bills are payable after 90 days because the opener of the Letter of Credit will make the payment of the bill amounts after 90 days and in that case there will be question of payment of interest for the period of 90 days. It is stated by the Opposite Parties that on this representation of complainant requested Branch Manager of Opposite Party No. 1 that if Bank makes payment to them, they are ready to pay advance the amount of interest which will be approximately Rs. 12 lacs. It was also agreed between the complainant and the Bank that if the amount of interest is paid by the opener of Letter of Credit then the Bank will refund the amount of Rs. 12 lacs to the complainant. The Opposite Parties stated that the opener of the Letter of Credit made the payment on due date and the Bank immediately refunded Rs. 12 lacs to the complainant through pay order dated 1.5.96 which was got encashed by the complainant through their Bankers on 6.5.96.

3. IT would appear from the above narration of facts and it was not disputed from the side of the complainant that the amount of Rs. 12 lacs had been refunded to the complainant by the Bank by pay order dated 1.5.96. The only question, therefore, survives for determination is whether the Central Bank of India could withhold the payment of Rs. 12 lacs on 30.1.96 on the ground that the due date was 90 days from the date of receipt of the invoice by the Bank as an interim security. It is an admitted fact that the Letter of Credit had been opened by Opposite Party No. 4 and beneficiary of this Letter of Credit was the complainant. It is also not in dispute that condition No. 6 contained in the Letter of Credit had been amended by the Bank as requested by Opposite Party No. 4 and the Bank had to make reimbursement to the complainant on the date of negotiation. Under the Letter of Credit, therefore, the Bank had undertaken to pay the amount of invoices to the complainant on the date of negotiation. There was no justification whatsoever for the Opposite Party No.l to withhold payment

of Rs. 12 lacs on the basis that Opposite Party No. 4 was to make payment after 90 days of the receipt of the bills. We are not at all ready to accept the case of the Opposite Parties Nos. 1,2 &3 that the complainant was ready to take the amount after deduction of Rs. 12 lacs under any stipulation that if Opposite Party No. 4 will pay interest to the Bank, the latter will refund the amount of Rs. 12 lacs to the complainant. No document evidencing such arrangement has been produced by the Bank and none had been executed. The theory of this arrangement also stands disregarded on the ground that under the amended condition No. 6 reimbursement was to be done on the date of negotiation. The Central Bank of India had opened a Letter of Credit in favour of Opposite Party No. 4 and the liability to pay interest was of Opposite Party No. 4 and not at all of the complainant. This is also clear from a letter sent by the Central Bank of India, F. Bills IMP. Bombay to the complainant on 22.2.96 wherein it was clearly stated that "interest for the assurance period to the account of the Letter of Credit opener." Thus clearly the Bank had agreed that the liability to pay interest with respect to the usance period was of Opposite Party No. 4 and not at all of the complainant.

4. THERE was, therefore, clearly deficiency in service on the part of Opposite Party No. 1 in withholding the amount of Rs. 12 lacs during the period from 30.1.96 to 30.4.96. As to the compensation, we are of the view that the Opposite Party No. 1 will pay to the complainant interest on the amount of Rs. 12 lacs @ 18% p.a. for the period from 30.1.96 to 30.4.96. The Opposite Parties Nos. 1,2 and 3 will further pay Rs. 10,000/- as compensation to the complainant for their gross negligence in rendering the service. The complainant will also get Rs. 2,000/- as costs from Opposite Parties Nos. 1,2 & . The Opposite Parties will make the payment to the complainant within one month. The complaint as against Opposite Party No. 4 is dismissed as no relief has been sought by the complainant against Opposite Party No. 4. The complainant will pay Rs. 2,000/- as costs to Opposite Party No. 4 for unnecessarily impleading the party without claiming any relief against it. Complaint allowed with costs.