
(2007) 08 NCDRC CK 0050

In the National Consumer Disputes Redressal Commission

TATA TEA LIMITED

APPELLANT

Vs

OVERSEAS TRADING CORPORATION

RESPONDENT

Date of Decision : 17-08-2007

Acts Referred:

Citation : 2007 4 CPJ 418

Hon'ble Judges : J.D.Kapoor , Rumnita Mittal J.

Final Decision : Appeal disposed of

Judgement

1. VIDE impugned order dated 14.12.2000 which is an ex parte order, the appellant Tata Tea who was arraigned as respondent-2 before the District Forum has been jointly and severally held liable with respondent-1 M/s. Satya Priya Roadlines Pvt. Ltd. whose services for transport of the goods were availed by respondent-1 for having delivered the consignment in short quantity and directed to pay the rupee equivalent of the cost of 1709 kgs. of copper cathodes as per the prevailing exchange rate on the date of loss i.e., 2.6.1996 and pay interest @ 18% p.a. till the amount is actually paid and Rs. 10,000 as damages and Rs. 2,000 as cost of litigation. Feeling aggrieved the appellant M/s. Tata Tea Ltd. who was admittedly the settlement agent of respondent-2 M/s. Satya Priya Roadlines Pvt. Ltd. has preferred this appeal.

2. IMPUGNED order has been assailed firstly, on the ground that appellant was not at all served with any notice of the complaint issued by the District Forum as it was sent at wrong address and secondly, that it was only a settlement agent and, therefore, there was no relationship of consumer and service provider between the respondent-1 and the appellant because respondent-1 availed the services of respondent-2 only for transportation of goods from Delhi to Rewari. The appellant was impleaded as respondent on the basis of the following insurance certificate vis-a-vis the appellant : "Settlement. In the event of any claim arising under this insurance request for settlement should be made to the Corporation's Claims Settling Agents : 33 Aldgate High Street, London EC3N 1AQ or to their appointed representatives : Tata Tea Ltd., Standard Chartered Bank

Building, Mahatama Gandhi Road, (P.O. Box 73), Bombay-400 001."

Since the impugned order is an ex parte order, the appellant was neither given an opportunity to put up its version particularly as to its liability in the capacity of service provider and has been held guilty jointly and severally along with the main service provider because of its being a settlement agent only, we allow the appeal, set aside the impugned order qua the appellant only and send back the matter to District Forum for deciding it afresh after providing reasonable opportunity to the appellant of being heard.

3. HOWEVER, as regards respondent - 2 M/s. Satya Priya Roadlines Pvt. Ltd., the learned Counsel has assailed the order also as it was never served with the notice of the complaint issued by the District Forum and for the first time he received the notice sent to it in this appeal. Since respondent-2 has not challenged the order independently by way of filing appeal, no relief can be provided to respondent-2 in these proceedings. Respondent-2 could have filed an appeal seeking condonation of delay when it received the notice of this. Reply by respondent-2 cannot be treated as an appeal against the impugned order. Parties shall appear before the District Forum on 18.9.2007 for the aforesaid purpose.

4. BANK Guarantee/FDR, if any furnished by the appellant, be returned forthwith. A copy of this order as per the statutory requirements be forwarded to the parties free of charge and also to the concerned District Forum and thereafter the file be consigned to Record Room. Appeal disposed of.