

(1993) 09 NCDRC CK 0028

In the National Consumer Disputes Redressal Commission

Tata Timken Ltd.

APPELLANT

Vs

MRS. SAROJ GUPTAS

RESPONDENT

Date of Decision : 09-09-1993

Acts Referred:

Citation : 1993 3 CPJ 1783 : 1993 3 CPR 539 : 1994 1 CPC 251

Hon'ble Judges : R.N.Mittal , S.Brar , A.N.Saxena J.

Final Decision : Revision Petition accepted

Judgement

1. THE revision petition has been filed by the opposite party against the order of the District Forum dated 25.5.93.

2. BRIEFLY the facts are that the complainant filed a complaint for recovery of Rs. 80/- on the ground that the opposite party has not refunded that amount to him. The complaint was contested by the opposite party. They took a preliminary objection that the Forum had no jurisdiction to entertain the complaint as provisions of Part A Chapter III of the MRTP Act were applicable to the respondent-company. The learned District Forum observed that the preliminary objection would be considered alongwith the objections on merits. The opposite party has come up in appeal against the order of the Forum to the Commission. The point does not require any elaboration, as in similar circumstances, the National Commission in Tata Timken v. Consumer Protection Council, Ahmedabad & Others (Revision Petition No. 485 of 1992) decided on 21.5.93, held as follows:- "....It is the Court's discretion to decide whether all the issues including the preliminary issues should be decided together or preliminary issues alone be decided first. In taking this decision, it may consider whether it will be more expedient to try all the issues together instead of trying and deciding the limited questions which effect the very root of jurisdiction or pertain to the existence of a statutory bar, before considering the other issues in a dispute or complaint. The test has to be whether the interests of justice and expeditious disposal of suits/disputes would be better achieved by deciding the preliminary objections relating to jurisdiction in the first instance itself or

deciding all the issues, including relating to jurisdiction, together. It is not unoften that parties seek to abuse the judicial process so as to protract litigation by challenging the jurisdiction of a Court of Law in the event of an adverse decision by going in appeals on the question of jurisdiction to higher Courts so that the Courts may never come to grips with the real issues in dispute. the Consumer Protection Act provides free adjudication of disputes: no Court fee is payable for prosecuting complaints before Consumer Forums. The result is that there is a tendency on the part of parties to somehow assume the garb of a consumer and seek redress through the Consumer Forums. The tendency on the part of litigation is further accentuated because the consumer forums decide the disputes expeditiously and are expected to give the decisions within a period of 90 days. Thus the Consumer Forums provide an alternative remedy for cheap and quick redressal as against obtaining redress through the time consuming and expensive civil litigation. In this context, it is all the more necessary that we eschew entertaining complaints which, on the face of it, are outside the jurisdiction of the consumer forums. The objection regarding jurisdiction in this case, however, obviously goes to the root of the matter..."

Taking into consideration the facts and circumstances of the case they came to the conclusion that the preliminary objection relating to jurisdiction arising in the case should be decided in the first instance. Consequently it accepted the revision petition and directed the State Commission to decide the question of jurisdiction in the first instance.

The above view was affirmed by the Supreme Court in Consumer Protection Council, Ahmedabad v. Tata Timken Ltd. & Others (Spl. Leave Petition No. 12186 of 1993) decided on 20.8.93. The facts of the present case are the same as those of the above case and the observations are fully applicable to this case.

3. FOR the aforesaid reasons we accept the revision petition, set aside the order of the District FORum and direct it to decide the question of jurisdiction raised by the opposite party in the first instance. The parties are directed to appear before the District FORum on 29.9.93. No order as to costs. Revision Petition accepted.