

**STATE CONSUMER DISPUTES REDRESSAL COMMISSION
UT CHANDIGARH**

**First Appeal No. A/147/2017
(Arisen out of Order Dated 10/04/2017 in Case No. Complaint Case No. CC/112/2017 of
District DF-II)**

1. Anirudh Gupta

Chd.

.....Appellant(s)

Versus

1. Manager, United Colours of Benetton

Chd.

.....Respondent(s)

BEFORE:

**HON'BLE MR. JUSTICE Jasbir Singh PRESIDENT
DEV RAJ MEMBER
PADMA PANDEY MEMBER**

For the Appellant:

For the Respondent:

Dated : 26 Jul 2017

Final Order / Judgement

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,

U.T., CHANDIGARH

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|---------------------|---|-------------|
| Appeal No . | : | 147 of 2017 |
| Date of Institution | : | 26.05.2017 |
| Date of Decision | : | 26.07.2017 |

Anirudh Gupta S/o Sh.Rajesh Gupta, R/o H.No.1140, Sector- 43-B, Chandigarh

.....Appellant

V e r s u s

The Manager, United Colors of Benetton, ADI Sports, Shop No.38-A, Ground Floor, Elante Mall, Plot No.178-178-A, Industrial Area, Phase-I, Chandigarh

.....Respondent

Appeal under Section 15 of the Consumer Protection Act, 1986 against order dated 10.04.2017 passed by District Consumer Disputes Redressal Forum-II, U.T. Chandigarh in Consumer Complaint No. 112/2017.

BEFORE: JUSTICE JASBIR SINGH (RETD.), PRESIDENT.

MR. DEV RAJ, MEMBER.

MRS. PADMA PANDEY, MEMBER

Argued by : Mr.Anirudh Gupta, appellant in person.

Mr.Krishan M. Vohra, advocate for the respondent.

PER JUSTICE JASBIR SINGH (RETD.), PRESIDENT

Appellant/Complainant has filed this appeal against order dated 10.04.2017, passed by the District Consumer Disputes Redressal Forum-II, U.T., Chandigarh (in short the Forum only), vide which consumer complaint bearing No.112 of 2017 filed by him was dismissed.

2. Before the Forum, it was case of the complainant that he visited retail outlet of the Opposite Party on 31.1.2017 and purchased one white shirt against a bill. Maximum Retail Price of the product was mentioned as Rs.1899/-, on which 50% discount was offered. The appellant was under an impression that he will have to make payment of Rs.949.50. However, admittedly he was charged an amount of Rs.996.98. It was stated that extra VAT was wrongly charged @5% amounting to Rs.47.48p. It was stated that all taxes were included in the Maximum Retail Price of the product and it was not opened to the OP/respondent to charge VAT again on the discounted price. To show that the product was so purchased and VAT was extra charged, reliance was placed on invoice dated 31.1.2017(C-1). Alleging deficiency in providing service and adopting unfair trade practice on the part of the OP, a consumer complaint was filed before the Forum.

3. Upon notice, reply was filed by the OP wherein it was stated that the complaint was filed by concealing material facts and further after discount, the discounted price becomes Maximum Retail Price and on that VAT was rightly imposed. The tax amount was paid to the department concerned.

4. Both the parties led evidence. The Forum, on appraisal of pleadings of the parties, documents on record and arguments addressed, dismissed the complaint, by observing as under ;

“After hearing the complainant, in person, the Counsel for the OP and going through the evidence on record, we are of the considered view that the complaint is liable to be dismissed for the reasons stated hereinafter. The complainant has produced on record a copy of the Invoice of the item in question from which it cannot be ascertained that as to whether the MRP of the item(s) in question is inclusive of all the taxes or not. The complainant has not produced on record a copy of the price tag of the item in question to corroborate the fact that the price of the item in question is inclusive of all the taxes and that the OP has illegally charged VAT on the discounted price. Hence, the complainant has failed to prove his case against the OP.”

5. It was stated by the Forum that to show that VAT was imposed on the purchased product, only copy of the invoice has been placed on record from which it cannot be ascertained as to whether Maximum Retail Price of the product purchased was inclusive of all taxes or not. It was further said that the price tag was not produced on record to prove the above said fact.

6. After hearing Counsel for the parties and going through the record, we are of the opinion that the view taken by the Forum is not correct. It is apparent on record that price of the product was clearly mentioned at Rs.1899/-, on which, discount to the extent of 50% was offered and as such, it was not open to the OP to charge VAT on the discounted price. Similar question came before this Commission for consideration in the case titled as **Parvinder Kaur Grover Versus M/s College Shoes, Appeal No.50 of 2017 decided on 1.5.2017** , wherein under similar circumstances, it was observed as under ;

“An error has been committed. On reading of the document, it clearly comes out that price of the product purchased was specifically mentioned under the column mentioned for MRP. If it is so, it was not open to the OP to impose VAT thereupon. Rule-2 Clause-(1) of the Legal Metrology (Packaged Commodities) Rules,2011 has defined the concept of Maximum Retail Price as under;

“Maximum or Max. retail price....inclusive of all taxes or in the form MRP Rs.....incl., of all taxes after taking into account the fraction of less than fifty paise to be rounded off to the preceding rupees and fraction of above 50 paise and up to 95 paise to the rounded off to fifty paise;

It is specifically stated therein that the MRP is inclusive of all taxes. It refers to the maximum price, a packaged product can be sold to a consumer.

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This Commission in a number of cases held that on the MRP, further VAT cannot be imposed. The said view of this Commission has been affirmed by the Hon’ble National Consumer Disputes Redressal Commission, New Delhi, in Revision Petition No.3477 of 2016 titled as **Aero Club(Woodland) Versus Rakesh Sharma** decided on 4.1.2017”.

7. At the time of arguments also, Counsel for the OP failed to furnish any explanation as to how VAT can be charged on the discounted MRP. It is must for an outlet owner when selling a product to mention MRP of the product. The consumer cannot be misled by making general statement that the product is being sold at 50% discount. Discount is supposed to be given only on MRP, when it is so mentioned on the product put under sale. Not only as above, in paragraphs No.1 & 2 of the complaint it was specifically stated by the complainant/appellant that maximum retail price of the product purchased i.e. shirt was Rs.1899/-. When replying those paragraphs on merits, the above fact has not been controverted by the OP/respondent. Under above circumstances, it was not open to the Forum to say that the complainant has failed to show what was the maximum retail price of the product purchased by him.

8. In view of the facts mentioned above, we are of the opinion that the Forum was not justified in dismissing the complaint filed by the appellant.

9. Accordingly Appeal is allowed. The order, under challenge, is set aside. Consequently, complaint filed by the appellant/complainant is also allowed and the OP/respondent is directed as under ;

- i. To refund Rs.47.48p charged as VAT
- ii. To pay Rs.2000/- towards physical harassment and mental agony
- iii. To pay Rs.1000/- towards costs of litigation.

The amount awarded shall be paid within 30 days of the receipt of certified copy of this order, failing which, it will start getting interest @ 9% p.a.(simple) till such time the payment is made.

10. Certified copies of this order, be sent to the parties, free of charge.

11. The file be consigned to Record Room, after completion.

Pronounced.

26.07.2017

[HON'BLE MR. JUSTICE Jasbir Singh]
PRESIDENT

[DEV RAJ]
MEMBER

[PADMA PANDEY]
MEMBER