

**PUNJAB STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
DAKSHIN MARG, SECTOR 37-A, CHANDIGARH**

First Appeal No.948 of 2015

Date of institution: 21.08.2015

Date of decision : 25.07.2016

United Colors of Benetton, through its Authorized Signatory, having its office at Shop No.23-24, Ground Floor, Trillium Mall, Circular Road, Amritsar-143001.

.....Appellant-Opposite Party

Versus

Ravinder Singh, S/o Sh. S.Gulzar Singh, R/o House No.16, Shaheed Nagar, Chhehartta, Amritsar Punjab.

..... Respondent/Complainant

**Appeal against the order dated 15.05.2015
passed by the District Consumer Disputes
Redressal Forum, Amritsar.**

Quorum:-

Sh. Vinod Kuma Gupta, Presiding Member

Mrs. Surinder Pal Kaur, Member

Present:-

For the appellant : Sh. Sumeet Goel, Advocate

For respondent : Ex-parte

VINOD KUMAR GUPTA, PRESIDING MEMBER

This appeal has been preferred by the appellant/opposite party (in short "OP") against the order dated 15.05.2015 passed by District Consumer Disputes Redressal Forum, Amritsar (in short, "District Forum"), vide which the complaint filed by the complainant/respondent (in short, "complainant") was allowed and OP was directed to refund the amount of Rs.97.36 i.e. excess charged from the complainant in the form of tax (VAT). OP further directed to Pay Rs.5,000/- as compensation and Rs.1,000/- as

cost of litigation. The compliance of the order was ordered to be made within one month from the date of receipt of copy of the order thereof.

2. Brief facts of the case are that the complainant, Ravinder Singh, filed the complaint under Section 12 of the Consumer Protection Act, 1986 (in short, "the Act"), against the OP on the averments that he purchased one Trouser from OP vide bill No.769-3375 dated 11.07.2014. Due to season end sale, OP sold the trouser on 30% discount on price and as per Tag MRP was Rs.2299/- inclusive of all taxes. But the OP in spite of having price tag (inclusive of all taxes) charged 6.05% (Rs.97.36) tax on the said product. He made strong protest to OP that price tag displays price inclusive of all taxes. OP charging the taxes on the said product against the provision of law. But it did not care and insisted of charging the same and even used foul language to him who was accompanied by his close friends. The act of OP in charging excess VAT amounting to deficiency in service on its part. He prayed for issuance of following directions to the OP.

- (i) to refund the amount of Rs.97.36 charged for the tax alongwith interest @12% per annum,
- (ii) To pay Rs.50,000/- as compensation for harassment to him.

3. The complaint was contested by OP by filing written reply before the District Forum. OP in its written reply took the preliminary objections that the complaint of the complainant was vague and baseless. The main grievance of the complainant pertains to the levying of value added tax (VAT) on the discounted selling price (discounted maximum retail price) of the sale merchandise purchased by him. As per the terms and condition of the End of Season Sale 2014 (EOSS), the percentage of discount was applicable only on the maximum retail price (MRP) of the merchandise and VAT on the same was to be charged extra from the

customers. In the month of July, 2014 the OP by way of their EOSS offered various discount offers to its customers across India in order to attract customers and boost their sales. Said discount offers were available to the customers subject to certain terms and conditions of the EOSS, which were distinctly displayed at the shop/ showroom of the OP and also made known to the customers at the time of purchase. As per the Clause 4 of the terms and conditions applicable to the discount offers, discount was applicable only on the maximum retail price of the merchandise and VAT was to be charged extra on the discounted selling price of the merchandise. Other allegations contained in the complaint were denied and it prayed for dismissal of the complaint.

4. Both the parties produced evidence in support of their respective arguments, before the District Forum, which after going through the same and hearing learned counsel on their behalf, allowed the complaint, vide aforesaid order.

5. It was submitted by the learned counsel for the appellant/OP that the District Forum has lost sight of the fact that the payment against the product purchased was willingly made by the complainant and such payment was not made under any protest; that the stipulation that VAT would be charged extra on the discounted price was communicated to the complainant and was clearly mentioned on the pamphlets/handbills as well. The District Forum committed a grave error by directing the OP to pay a sum of Rs.6,000/- to the complainant, in addition to a refund of the tax amount, though the Respondent/complainant had failed to establish any loss to him. It was prayed that the appeal be accepted and the order passed by the District Forum be set-aside.

6. We have heard learned counsel for the appellant/OP, whereas respondent/complainant was proceeded ex-parte, vide order dated 06.11.2015, and have carefully gone through the records of the case.

7. It is an admitted fact that the complainant purchased one Trouser from the OP vide bill dated 11.07.2014 Ex.C-2 for Rs.1706/-. The original price of the Trouser was Rs.2299/- (Including of all taxes) as per tag Ex.C-3. The relevant part of Ex.C-2 is reproduced as under:-

Sr. No.	Bill No. & Date	Actual Price	Discounted amount	Price after giving discount	VAT @6.05%	Amount payable incl. VAT
1.	769-3375 /11.07.2014	2299/-	690/-	1609/-	97.36/-	1706/-

It is clear from bill Ex.C-2 that the original price of the Trouser was Rs.2299/- including all taxes. It sold the Trouser in question on 30% discount on actual price which amounting to Rs.1609/- but it further charged VAT @6.05% i.e. Rs.97.36 on actual price of the trouser i.e. Rs.1609/- including all taxes which comes after giving discount of Rs.690/- on MRP of Rs.2299/-. The OP is not entitled to further charged VAT @6.05% on the amount of Rs.1609/- on the product after giving discount. OP fully knowing all these facts that the original price of the product was Rs.2299/- was already included VAT and further charged Rs.97.36/- on the price of the Trouser i.e. Rs.1609/- which comes after giving discount by OP. The said price of Rs.1609/- was already included VAT after giving discount. There is no satisfactorily evidence brought on file that on the tag of the item (Ex.C-3) mentioned price (including of all taxes) does not

include VAT, which would be extra. In such circumstances, it will be presumed that VAT also comes under the writing, including all taxes. Therefore, the OP was not justified in charging VAT on the amount of Rs.1609/-, which amounts to deficiency in service on its part. There is no infirmity in the order of District Forum.

8. Sequel to the above discussion, the appeal filed by the appellant/OP is meritless and the same is hereby, dismissed. The order passed by the District Forum is affirmed and upheld.

9. The appellant had deposited a sum of Rs.6,098 /- at the time of filing of the appeal. Out of the above said amount, the amount of Rs.5000+1000+97.36 = 6097.36/- be refunded by the registry to the complainant/respondent by way of a crossed cheque/demand draft and remaining amount shall be paid with interest, if any, to the appellant/OP after the expiry of 45 days of the sending of certified copy of the order to them.

10. The arguments in this case were heard on 15.07.2016 and the order was reserved. Now, the order be communicated to the parties.

(VINOD KUMAR GUPTA)
PRESIDING MEMBER

(SURINDER PAL KAUR)
MEMBER

25th July, 2016