

**DISTRICT CONSUMER DISPUTES REDRESSAL
MALAPPURAM**

**Complaint Case No. CC/493/2023
(Date of Filing : 18 Sep 2023)**

1. BINEESH A
ANDISSERI GAYAL HOUSE KOLAKKATTUCHALI POST
KOLAKKUTH CHELEMBRA 673634

2. .

.....Complainant(s)

Versus

1. AMAZON INDIA PVT LTD
SECOND FLOOR SAFINA TOWERS OPPOSITE JP
TECHNO PARK NO 3ALI ASKAR ROAD BANGLORE
560052

2. APPARIO RETAIL PVT LTD
BROAD VIEW CONSTRUCTION AND HOLDINGS PVT
LTD CHETTIPALAYAM, ORATUKUPPAI VILLAGE,
PALLADAM MAIN ROAD, COIMBATURE 641201

.....Opp.Party(s)

BEFORE:

**HON'BLE MR. MOHANDASAN K PRESIDENT
HON'BLE MR. MOHAMED ISMAYIL CV MEMBER
HON'BLE MRS. PREETHI SIVARAMAN C MEMBER**

PRESENT:

Dated : 29 Apr 2024

Final Order / Judgement

By Smt. PREETHI SIVARAMAN.C, MEMBER

Complaint in short is as follows:-

1. On 13/07/2023 complainant had ordered a Juke bar 9750 Pro 5.1.2 Surround Dolbi Atmos 525 W Sound bar with sub-woofer through Amazon by using the credit card of his friend Rasheed Perincheeri. On 15/07/2023 at about 4.50 PM complainant

had got the product and a staff came to complainant's house for installation of the product after 5 days of its purchase. But the sound clarity of the product was very low hence complainant returned the product. As per the return request, on 24/07/2023 the product was taken back by the persons who delivered the product to complainant. At the time of taking the delivery of the product they assured that they will refund the money within 5 days.

- 2.** There is no reply received by complainant after 2 weeks of taking the product. Then complainant contacted the customer care executive of the product through phone, but they told to complainant that they did not take the product from complainant's house. Hence they refused to refund the price of the product to complainant. The act of opposite parties amount to clear deficiency in service and unfair trade practice from their side. Hence this complaint.
- 3.** The prayer of the complainant is that, he is entitled to get Rs. 50,000/as compensation on account of deficiency in service and unfair trade practice on the part of opposite parties and thereby caused mental agony, physical hardships and sufferings to the complainant and cost of the proceedings.
- 4.** On admission of the complaint notice was issued to the opposite party No.1 and notice served on them and they appeared before the Commission through their counsel and filed version. Thereafter on 20/11/2023 complainant filed one IA 708/2023 to implead the seller of the product, Appario Retail Private Limited as second opposite party. That petition allowed and notice sent to second opposite party, but notice returned stating that "No such addressee". Hence notice again issued to opposite party No.2 and notice returned stating that " No such addressee". Hence opposite party No.2 set aside.
- 5.** In their version, Opposite party No.1 denied all the allegations levelled by complainant against them except those which are admitted there under. Opposite party No.1 again stated that complainant placed the order for the above product from an independent third party seller that is opposite party No.2. The tax invoice was issued by the seller and not by opposite party No.1 and which is clearly indicating that the transaction of same was executed between the complainant and the seller. Moreover the payment of consideration towards the product was made by the complainant to the seller in the nodal account set up in accordance with the RBI guidelines. Hence payment made into the nodal account is not a payment made to the opposite party No.1. Based on the RBI directions, opposite party No.1 does not charge the buyers on the E-commerce market place and consideration paid by the buyers towards purchase on the E-commerce market place is paid directly to the independent third party seller from whom the purchase is made through the nodal account.
- 6.** Opposite party No.1 provides a free for all market place to buyers who have access to internet, hence providing a communication and hosting network to buyers to purchase products for sale and to conduct a transaction. They admitted that complainant approached them on 21/07/2023 alleging that he has return the product and requested for a refund for the same. Based on the complaint of complainant, opposite party No.1 took necessary step and internally enquired into the matter and they came to know that the product was never received by them as the return request was cancelled before the product could be picked up from the complainant and it was duly communicated to the complainant through email on 09/09/2023. They again stated that, complainant should be put to strict proof of evidencing of return of the product to opposite party No.1. The return of the product was not completed, hence no refund could be issued to the complainant.
- 7.** They again stated that, they are only operates and manages, the E-commerce market place and they are only an intermediary and they provides users access to a wide range of listed products for sale. Any seller is free to list any product for sale and any buyer is free to choose and order any product. Being an intermediary and E-commerce market place and they

are not liable for any claims arising out of the product sold on the E-commerce market place by independent third party sellers. Hence complaint may be dismissed.

8. In order to substantiate the case of the complainant, he filed an affidavit in lieu of Chief examination and the documents he produced were marked as Ext. A1 to A3. Ext.A1 is the copy of tax invoice given by opposite party No.2 to complainant on 13/07/2023. Ext.A2 is the copy of email communication between complainant and opposite party No.1. Ext.A3 is the pen drive. Thereafter opposite party No.1 did not file affidavit and documents to prove their case. Hence opposite party No.1 also set exparte.

9. Heard the complainant and perused the affidavit and documents filed by complainant. The allegations against opposite parties are proved by the unchallenged evidence of complainant. There is no contra evidence in this matter. Moreover complainant produced three documents which are very supportive to prove his case. From the version of opposite party No.1, it is clear that they know the entire complaint of complainant very well. They may be only an intermediary between the seller and the buyer, but they very well knew the entire transaction between the seller and buyer. From Ext. A1 it is clear that complainant had purchased the product on 13/07/2023 and in the version of opposite party No.1, they admitted that on 21/07/2023 complainant had approached them and stated that he had returned the product and he also requested for a refund for the same. Thereafter they internally enquired into the matter and they stated that they came to know that the product was never received by them. That means the product received by complainant had defects and he approached opposite party No.1 for return the product. Complainant stated that the staff of opposite parties came to his house after 5 days of the purchase of the product for installing the product at his house. On that day he returned the product due to low sound clarity. On 24/07/2023 the same persons who delivered the product had taken back the product. So the contention of complainant is believable. The product is defective and that is admitted by opposite party No.1. Moreover complainant produced one pendrive before the commission which is marked as Ext. A3. In Ext. A3, it is seen that some persons taken back the product from a house. Hence the Commission finds that there is deficiency in service and unfair trade practice on the part of the opposite parties as alleged in the complaint. Hence we allow this complaint holding that opposite parties are deficient in service.

10. We allow this complaint as follows:-

- The opposite parties are directed to refund Rs. 18,999/-(Rupees Eighteen thousand nine hundred and ninety nine only) the cost of the product to the complainant.
- The opposite parties are also directed to pay compensation of Rs. 15,000/-(Rupees Fifteen thousand only) to the complainant on account of deficiency in service on the part of opposite parties and thereby caused mental agony, physical hardships and sufferings to the complainant.
- The opposite parties are also directed to pay Rs. 2000/-(Rupees Two thousand only) as cost of the proceedings.

If the above said amount is not paid to the complainant within 30 days from the date of receipt of copy of this order, the opposite parties are liable to pay the interest at the rate of 12% per annum on the said amount from the date of receipt of the copy of this order till realisation.

Dated this 29th day of April 2024.

MOHANDASAN K., PRESIDENT

PREETHI SIVARAMAN C., MEMBER

MOHAMED ISMAYIL C.V., MEMBER

APPENDIX

Witness examined on the side of the complainant : Nil

Documents marked on the side of the complainant : Ext.A1 to A3

Ext.A1 : Copy of tax invoice given by opposite party No.2 to complainant on
13/07/2023.

Ext.A2 : Copy of email communication between complainant and opposite party
No.1.

Ext.A3 : Pen drive.

Witness examined on the side of the opposite party : Nil

Documents marked on the side of the opposite party : Nil

MOHANDASAN K., PRESIDENT

PREETHI SIVARAMAN C., MEMBER

MOHAMED ISMAYIL C.V., MEMBER

**[HON'BLE MR. MOHANDASAN K]
PRESIDENT**

**[HON'BLE MR. MOHAMED ISMAYIL CV]
MEMBER**

**[HON'BLE MRS. PREETHI SIVARAMAN C]
MEMBER**