

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 2685 OF 2016

(Against the Order dated 04/08/2016 in Appeal No. 199/2016 of the State Commission Himachal Pradesh)

1. AJAY KUMAR

S/O. SH. CHUNDGI RAM R/O. VILLAGE BALDHAR
PO BALDHAR TEHSIL NAGROTA BAGWAN

DISTRICT-KANGRA

HIMACHAL PRADESH

.....Petitioner(s)

Versus

1. M/S. ANAND AUTO MOBILE & ANR.

AUTHORIZED DEALER FOR MAHINDRA
TRACTOR, NATIONAL HIGH WAY, 20, BODH,
TEHSIL NURPUR

DISTRICT-KANGRA

HIMACHAL PRADESH

2. MANAGING DIRECTOR,

MAHINDRA & MAHINDRA LTD.

MUMBAI

MAHARASHTRA

.....Respondent(s)

BEFORE:

**HON'BLE MR. JUSTICE AJIT BHARIHOKE, PRESIDING MEMBER
HON'BLE MR. ANUP K THAKUR, MEMBER**

For the Petitioner : Mr. Utkarsh Rai, Advocate

For the Respondent :

Dated : 02 Aug 2017

ORDER

This revision petition is directed against the order of the Himachal Pradesh State Consumer Disputes Redressal Commission, Shimla dated 4.8.2016 in first appeal No.199/2016 resulting in dismissal of the petition preferred by the petitioner/complaint against the order of the District Forum.

2. Briefly put, facts relevant for the disposal of the revision petition are that the petitioner filed a complaint in the District Forum concerned alleging that he had purchased a tractor manufactured by No.2, from respondent No.1. Grievance of the complainant is that the said tractor was a second hand which was earlier sold by respondent No.1 to one Jagjeevan S/o Parshothom Lal. The other grievance of the petitioner is that tractor was suffering from manufacturing defect and it started giving trouble within a short period from the purchase which could not be rectified.

3. The opposite party No.2 in its written statement admitted the sale of tractor by opposite party 1 petitioner/complainant. However, the allegations regarding manufacturing defect and sale of second representing as new was denied.

4. The District Forum on consideration of pleadings and the evidence did not find merit in the case. Accordingly, the complaint was dismissed. Being aggrieved of the order of the District Forum, the petitioner approached the State Commission in appeal. The State Commission also on re-appreciation of evidence concurred with the findings of the District Forum and dismissed the appeal. Being aggrieved of the findings of the Forum below the petitioner has filed the instant revision petition.

5. Learned counsel for the petitioner has assailed the impugned order stating that the State Commission failed to appreciate that from one invoice issued by opposite party No.1 service station it is clear that tractor chassis No.GWRA-00041 was earlier sold to one Jagjeevan S/o Parshothom Lal. In support of contention, counsel for the petitioner has referred to the photocopy of the said invoice allegedly issued by Anand Automobile (opposite party No.1). Contents of invoice are reproduced as under: -

“ M/s Anand Auto Mobile

(Mahindra Tractor Dealer)

National Highway 20, Bodh,

Jassur-176202

Telephone-01893220163

Customer Name : JAGJEEVAN SO/Quotation No :RS00036

Father Name : PARSHTHOM LAL SO/Quotation Date:18/01/2015

Address : Tr.Srl.No. :GWRA00043

Village Name :Sunehar

Tehsil Name : Nagrota Bagwan

District Name :Kangra

Pin :

Sl. No.	Part Description	Qty	Rate	Disc.	Value	Tax.	Amount(Rs.)
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3507044B1 CLUTCH RELEASE -38.1X67X16.5	1.00	402.86	0.00%	VAT Tax	423.00
5507356591 CLUTCH COVER ASSEMBLY	1.00	1,515.24	0.00%	VAT Tax	1,591.00
5507447B91 CLUTCH DISC ASSEMBLY(8)	1.00	1,302.86	0.00%	VAT Tax	1,368.00
3001521B91 CHECK CHAN CPTC MODIFIED	1.00	365.67	0.00%	VAT Tax	385.00
3001521B91 INJECTOR OVER FLOW PIPE AGNI	1.00	256.19	0.00%	VAT Tax	269.00
5009045B1 HIGH PRESSURE PIPE_AGNI	1.00	265.71	0.00%	VAT Tax	279.00

4,315.00

total Parts Value is Inclusive of:

Sales Tax 5.00% on 4,109.53 205.47

Parts Tax Amount:

Item Description	Value	Tax	Discount	Total Value
Clutch Housing R & R	150.00	00000%	0.00%	150.00
Car Box Housing R & R	150.00	00000%	0.00%	150.00
				<hr/> 300.00

Disc. Amount: _____ 0

Net Amount _____ 4615

FOUR THOUSAND SIX HUNDRED FIFTY ONLY.

For M/s Anand Auto Mobile.,

13

Branch Manager

192

383-70612

6. We have considered the submissions which seem to be unfounded. It is admitted case of the case that he purchased the subject tractor from opposite party No.1 on 16.10.2014. On reading of the service invoice relied upon by the petitioner/complainant we find that this invoice is dated 18.1.2015 in which consumer name is mentioned as Jagjeevan. If the petitioner had purchased the subject tractor in October there is no possibility of the tractor being sold by opposite party No.1 to Jagjeevan. Otherwise also, the Jagjeevan is shown as consumer and not registered owner. Therefore, it is not proved that the subject tractor earlier sold to Jagjeevan. It may also be mentioned that the number which is projected as chassis number of tractor on the invoice is slightly dim. However, on careful reading it appears that the chassis number of tractor regarding which the invoice has been issued is GWRA-00043 and not GWRA-00041, which is the number of the tractor of the petitioner.

7. Under the aforesaid circumstances we do not find merit in the contention of the petitioner.

8. So far as the second contention that the tractor suffers from manufacturing defects is concerned, it is noted that both the Fora below have returned concurrent finding of fact that no evidence to establish manufacturing defect has been led. Petitioner has not been able to show cogent evidence to support the allegation of manufacturing defect. Thus, we do not find any reason to differ with the aforesaid findings.

9. In view of the discussion above, we do not find any merit in the revision petition. Accordingly

.....J
AJIT BHARIHOKE
PRESIDING MEMBER
.....
ANUP K THAKUR
MEMBER