

Date of Filing: 30.05.2023
Date of Order: 04.12.2023

BEFORE THE DISTRICT CONSUMER DISPUTES REDRESSAL
COMMISSION – I, HYDERABAD
P r e s e n t

HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT
HON'BLE MR. B. RAJAREDDY, MEMBER

On this the Monday, the 04th day of December, 2023

C.C.No. 227/2023

Between:-

MR. Anirudh Rathi,
S/o Sri. K.L. Rathi,
Aged about 47 years, Occ: Service,
R/o: H.No. 3-5-144/5, Eden Garden,
Ram Kote, Street No.2,
Hyderabad, Telangana - 500001
Mobile No. 9398458937

....Complainant

AND

1. XIAOMI TECHNOLOGY INDIA PVT LTD,
Rep. By its Manager,
C/o Delivery Pvt Ltd,
O/o No. 6-129/A, Survey No. 670/671,
Lalgadi, Malakpet, Shamirpet Mandal,
Medchal Malkajgiri Dist, T.S - 500078.
2. XIAOMI SERVICE CENTRE,
Rep. By its Manager,
O/o. 1-8-525/B, 1st floor,
Above Airtel Showroom, Chikkadpally Main Road,
Hyderabad, T.S - 500020
3. XIAOMI TECHNOLOGY INDIA PVT LTD,
Rep. By its Director,
O/o Orchid (Block-E)
Ground Floor to 4th Floor, Embassy Tech Village,
Marathahalli - Sarjapur Outer Ring Road,
Bengaluru, Karnataka - 560103

....Opposite Parties

Counsel for the Complainant : M/s. B. Shanker
Counsel for the Opposite party Nos 1 & 2 : Ex-Parte
Counsel for the Opposite party No.3 : P. Venkanna Goud

ORDER

(By HON'BLE MRS. B. UMA VENKATA SUBBA LAKSHMI, PRESIDENT on behalf of the bench)

1. The present complaint is filed under Section 35 of the Consumer Protection Act, 2019, alleging deficiency of service and unfair trade practice on the part of opposite parties No. 1, 2 & 3, with a prayer which reads as under:

“Therefore, it is prayed that the Hon'ble Commission may be pleased to award an amount of Rs. 50,000/- (Rupees Fifty Thousand Only), in addition to the return of the amount of Rs. 2,399/- (Rupees Two Thousand Three Hundred and Ninety Nine Only), notice charges Rs. 10,000/- (Rupees Ten Thousand Only) along with interest @18% p.a. on Rs. 2,399/- (Rupees Two Thousand Three Hundred and Ninety Nine Only) from the date of purchase of the earphones and on Rs. 50,000/- (Rupees Fifty Thousand Only) from the date of filing this complaint and the cost of litigation to the complainant and pass any such other order or orders as this Hon'ble Commission may deem fit and necessary in the facts and circumstances of the case and in the interest of justice.”

2. Brief facts as averred in the complaint and necessary for adjudication are that the complainant, impressed with the advertisement of the product of the opposite parties, placed online order on 18.12.2022 for Mi True wireless earphones 2C-28814 and paid an amount of Rs. 2,399/- (Rupees Two Thousand Three Hundred and Ninety Nine Only). It is further averred that the complainant received the delivery of the product on 20.12.2022. While charging the earphones, it was observed that one side of the earphones was not charging, therefore, the complainant approached opposite party No. 2 on 21.12.2022. After several visits to the opposite party No. 2, he was told that the earphones supplied by the opposite party No. 1 had manufacturing defect. The opposite party No. 2 raised service order No. HHIN2212260000763 wherein it was mentioned 'one earphone not working'. When the complainant did not receive any call from opposite party No. 2 for 10 days, he approached them to enquire about the status of the

earphones. On 13.01.2023, the opposite party No. 2 informed the complainant that they would replace Xiaomi earphones with Redmi Buds 3 Lite-black colour. When the complainant refused the offer of replacement of his earphones with low quality and less priced earphones, the opposite party No. 2 informed him that it was the only option available to the complainant. It is stated that, upon enquiry, the complainant came to know that about 50 instruments of Mi True Wireless earphones 2C-28814 were found to be having manufacturing defects. Thereafter, the complainant got issued legal notice and e-mail notice dated 04.04.2023 and the opposite parties, in their e-mail reply, requested the complainant to visit their service centre for resolving the issue. It is further stated that the complainant visited the opposite party No. 2, but there was no change in the attitude and behaviour of opposite party No. 2. It is submitted that, due to the deficient service of opposite parties, the complainant was put to mental agony, hardship and inconvenience. Hence, left with no option, alleging deficiency of service and unfair trade practice on the part of opposite parties, the complainant filed the present complaint with a prayer to grant the reliefs as stated above.

3. Despite receipt of notice by opposite party No. 2 on 19.06.2023, none appeared on their behalf. As the opposite party No. 2 failed to file written version within the statutory period prescribed under the Consumer Protection Act, 2019, they were set ex-parte vide docket proceedings dated 02.08.2023.
4. The notice sent to opposite party No. 1 was returned with endorsement 'unclaimed', the same was deemed to be properly served and they were set ex-parte vide docket proceedings dated 30.06.2023.
5. In the written version, while denying the allegations, it is stated by the opposite party No. 3 that they are engaged in the marketing, sale and service of mobile phones, televisions, earphones and other products in India under the brands "MI", "Redmi", "Poco" and "Xiaomi". It is further stated that the electronic gadgets of the answering opposite party are sold under a set of warranty terms and conditions. The authorized

service centre of opposite party No. 3, on receiving the complaint from the complainant, has taken the earphones for repair. It is an established principle that if the product is repairable, the product will be repaired first and if not repairable, then it will be replaced. It is averred that it is only when the product cannot be replaced, refund is initiated. As per the applicable warranty, the authorized service centre of opposite party No. 3 has provided replacement. It is further averred that, as per the terms and conditions of the warranty, the opposite parties have duly honoured the obligation by providing the replacement. Hence, denying the allegations of deficiency of service and unfair trade practice on their part, the opposite party No. 3 prayed the Commission to dismiss the complaint.

6. During the course of enquiry, the complainant (PW-1) filed evidence affidavit and got marked the documents at Ex.A1 to Ex.A8. Mr. Sameer BS Rao (RW-1) filed evidence affidavit on behalf of opposite party No. 3 and got marked their documents at Ex.B1 & Ex.B2. Both parties filed written arguments and after hearing the learned counsel for complainant, the matter was reserved for orders.

7. Based on the facts and material on the record, the following points have emerged for consideration:

- a. Whether the complainant could establish deficiency of service and unfair trade practice on the part of opposite parties?
- b. Whether the complainant is entitled for the reliefs as prayed in the complaint? If so, to what extent?

8. Point 'a':

8.1. Admittedly, one earpiece was not working although the product appearance was good (Ex.B1, inspection sheet). The product was brought to the service centre within one week of the date of invoice was not disputed.

8.2. It is evident from Ex.A1 that, on the order dated 18.12.2022, the consignment was dispatched vide invoice No. 22MI36IN00221642. As per the invoice at Ex.A1, the

cost of 'Mi True Wireless Earphones 2C' was Rs. 2,399/- (Rupees Two Thousand Three Hundred and Ninety Nine Only). It is further evident from service order (created date 26.12.2022) that the fault description was mentioned as 'one earpiece not working' (Ex.A2-Ex.B1). It is also evident from e-mail dated 09.05.2023 (Ex.A8) that the opposite parties, after receiving the e-mail notice dated 04.05.2023 (Ex.A6) sent by the complainant, requested him to contact their authorized service centre for submitting the device. As per the track report, the legal notice was delivered to opposite parties (Ex.A3 to Ex.A5).

- 8.3.** It is the case of the complainant that the earphones supplied by the opposite parties was having manufacturing defect. It is also the case of the complainant that the replacement offered by the opposite parties was of low quality and sub-standard.
- 8.4.** It is the version of the opposite party No. 3 that the complainant refused to collect the replaced product. It is also the version of opposite party No.3 that, as per the applicable warranty terms and conditions (Ex.B2), refund would be initiated, if replacement was not possible.
- 8.5.** In the present case, the opposite party did not rebut the statement of the complainant that the replacement offered by the opposite parties was of low quality and sub-standard. Further, there is no iota of evidence to show that the complainant was provided with the copy of warranty terms and conditions at the time of taking the order by the opposite parties. Hence, the act of sending defective product and later on non-refunding the amount is deficiency in service. Hence, point 'a' is answered in favour of the complainant.

9. Point 'b':

- 9.1.** In the present case, as per the pleadings and documentary evidence, it is established that the defective earphones were delivered to the complainant. Further, refusing to refund the amount on the ground of applicable warranty terms and conditions and

replacement with another specifications' earphones (as per the complainant, low quality and sub-standard) amount to unfair trade practice on the part of opposite parties.

9.2. In our view there is no necessity for new earphones to be taken to service centre for repairs within one week from the date of invoice. The purchaser had been saddled with a defective product. Hence, the act of the opposite parties certainly caused immense mental agony and physical hardship to the complainant. Therefore, the complainant is entitled for just and reasonable compensation.

9.3. The complainant, in the case at hand, did not submit documentary evidence to substantiate the amounts mentioned / claimed in the Sr. No. 2 of tabular column at para 10 of the complaint (travelling expenses for number of visits to the service centre). In the absence of documentary proof, the amounts sought by the complainant cannot be granted.

9.4. In view of the above discussion and findings, the complaint is allowed in part and, the opposite parties are jointly and severally liable to make the payments.

9.5. In the result, the opposite parties are directed to

- (i)** Refund an amount of Rs. 2,399/- (Rupees Two Thousand Three Hundred and Ninety Nine Only);
- (ii)** Pay compensation of Rs. 5,000/- (Rupees Five Thousand Only);
- (iii)** Pay costs of Rs. 5,000/- (Rupees Five Thousand Only).

Time for compliance:

If the opposite parties fail to make the above-mentioned payments within 45 days of receipt of the order, the amount mentioned in Sr. No. (i) & (ii) shall attract interest @6% p.a. from the date of invoice till the date of actual payment.

Dictated to steno, transcribed and typed by him, pronounced by us on this the 04th day of December, 2023.

MEMBER

PRESIDENT

APPENDIX OF EVIDENCE

WITNESS EXAMINED FOR THE COMPLAINANT:

(PW1) MR. Anirudh Rathi,

WITNESS EXAMINED FOR THE OPPOSITE PARTY-3

(DW1) Sameer BS Rao.

EXHIBITS FILED ON BEHALF OF THE COMPLAINANT:

- Ex.A1 Copy of Tax invoice dated 20.12.2023.
- Ex.A2 Copy of Service order dated 26.12.2023.
- Ex.A3 Copy of legal notice dated 04.04.2023.
- Ex.A4 Copy of acknowledgment receipt dated 05.04.2023.
- Ex.A5 Copy of tracking reports.
- Ex.A6 Copy of legal notice sent via mail dated 04.05.2023.
- Ex.A7 Copy of reply to the mail sent on 04.05.2023.
- Ex.A8 Copy of Aadhar Card.

EXHIBITS FILED ON BEHALF OF THE OPPOSITE PARTY-3

- Ex.B1 Copy of Inspection sheet dated 26.12.2022.
- Ex.B2 Copy of Limited warranty statement dated 28.06.2023

MEMBER

PRESIDENT

PSK
READ BY:-
COMPARED BY :-