

STATE CONSUMER DISPUTES REDRESSAL COMMISSION,
UTTAR PRADESH, LUCKNOW

APPEAL NO. 2647 OF 1994

(Against the judgment/order dated 05.08.1994 in Complaint Case
No. 382/1994 of the District Consumer Forum, Allahabad.)

Kalyani Steels Ltd.

.....Appellant

Vs

Smt. Kamla Agarwal

.....Respondent

BEFORE:

**HON'BLE MR. JUSTICE BHANWAR SINGH, PRESIDENT
HON'BLE MR. SYED ALI AZHAR RIZVI, MEMBER**

For the Appellant : None appears.

For the Respondent : None appears.

Dated : 16.07.2010

JUDGMENT

MR. JUSTICE BHANWAR SINGH, PRESIDENT (ORAL)

None responds on behalf of the parties, even though the cause-list
of date was available on the Internet.

Since it is an old appeal of the year 1994, we proceed to decide it
on merit.

The impugned order dated 05.08.1994 of the District Consumer
Forum, Allahabad was challenged by the appellant Kalyani Steels Ltd.
whose debentures were purchased by the complainant Smt. Kamla
Agarwal and who have been directed to refund the amount of
Rs.3,750.00 alongwith 10% interest besides Rs.200.00 as litigation
charges.

The facts of the case giving rise to this appeal are very simple and
the same can be narrated as below:--

Smt. Kamla Agarwal remitted a sum of Rs.3,750.00 in March 1991
to M/s Kalyani Steels Ltd. for buying 100 debentures, but the said
company had failed to either allot the debentures to her or refund her
money. It was in these circumstances that the complainant was obliged to

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file the complaint. The appellants contested the complaint of Smt. Kamla Agarwal on the ground that a refund voucher for Rs.3,750.00 had been dispatched to the complainant and the same had been encashed through Cooperative Bank, Allahabad. The complainant denied in her replication that she had encashed any refund order/voucher remitted by M/s Kalyani Steels Ltd. Also she denied having any bank account in the Cooperative Bank, Allahabad.

It appears that the refund voucher dispatched by the Kalyani Steels Ltd. had fallen in wrong hands instead of being received by the complainant and by means of deceitful acts somebody got it encashed. Be that as it may, the complainant cannot be blamed for such fraudulent activity resulting in a fraudulent bank transaction. The fact remains that the complainant neither received the voucher, nor the amount of the voucher was ever credited to her bank account. M/s Kalyani Steels Ltd. owed an obligation to ensure that the complainant received the voucher dispatched by it. As a matter of fact, either the voucher should have been dispatched by means of registered post or by a courier so that any possibility of the envelope containing the refund voucher falling into the wrong hands was ruled out. In our considered opinion the complainant is not at fault and since she had not received her money back and further since she had not contributed to mistake committed by the company by sending the refund voucher through an ordinary post, she would be entitled to get her money back.

We, therefore, hold that this appeal preferred by M/s Kalyani Steels Ltd. is devoid of merit. As a consequence it is dismissed. Since the parties are not present, we refrain from making any order as to costs.


(JUSTICE BHANWAR SINGH)
PRESIDENT


(SYED ALI AZHAR RIZVI)
MEMBER