

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION  
NEW DELHI**

**REVISION PETITION NO. 4090 OF 2012**

(From the order dated 10.04.2012 in First Appeal No. 118/2011 of  
State Consumer Disputes Redressal Commission, TAMILNADU,  
CHENNAI AT BENCH-II)

WITH  
IA/1/2012  
(DELAY)

D.K. Chopra  
1039, Sector-A, Pocket-A  
Vasant Kunj, New Delhi – 110 070

...Petitioner

Versus

Snack Bar  
(A unit of Saptagiri Restaurant)  
Kamaraj Domestic Terminal  
Chennai Airport, Chennai – 600 027

...Respondent

**BEFORE:**

**HON'BLE MR. JUSTICE J.M. MALIK, PRESIDING MEMBER  
HON'BLE DR. S.M. KANTIKAR, MEMBER**

For the Petitioner : Ms. Tushti, Advocate

For the Respondent : Mr. Bidin Kalappa, Advocate

**PRONOUNCED ON 4<sup>th</sup> MARCH, 2014**

**ORDER**

**JUSTICE J.M. MALIK**

1. We were flummoxed to know that service providers/Traders, charge more money, almost, the double, from the 'consumers', with impunity. No 'special' law or rule, saw the light of the day, in favour of the Stall-owners, at the Airports.
2. The respondent has a Snack Bar, a Unit of Saptagiri Restaurant at Kamraj Domestic Terminal, Chennai Airport, Chennai. Snack Bar is neither a Restaurant nor has place to sit. It sells the goods, as if it were a Stall. It sold 'red-bull' – 'energy drink', to Shri D.K.Chopra, the complainant/petitioner.

Its MRP is Rs.75/-, but it was sold at Rs.150/-, per can and Rs.300/- for two cans, on 01.11.2009. It again sold one 'red bull' – 'energy drink', at Rs.140/- on the same day, to Sh.D.K. Chopra, Resident of Delhi. Legal notice was sent, but it did not ring the bell. Ultimately, a complaint was filed before the District Forum, with the prayer to pay a sum of Rs.2,00,000/- for the harassment and mental agony and Rs.11,000/- towards legal expenses and to pay travel expenses. Snack Bar, the respondent/OP did not contest the case before the District Forum. The District Forum dismissed the complaint.

3. The State Commission, too, dismissed the First Appeal, filed by the complainant, on the following reasons. Firstly, the petitioner/ complainant has failed to prove, what is the Maximum Retail Price (MRP) of the product. Secondly, he had produced two Receipts, Ex.A1, in the sum of Rs.300/- and Ex.A-2, in the sum of Rs.140/-. Ex.A-1, was not signed. Ex.A-2, was signed. Again, copy of the legal notice was also not filed.

4. It is also transpired that the complainant filed another CC No.5/09, before the District Forum, which was accepted and compensation in the sum of Rs.10,000/- was awarded. The complainant has yet again, filed another complaint bearing No.7/2012, which has got similar facts and is still pending.

5. There is delay of 10 days, in filing the instant revision petition before this Commission, for which, an application for condonation of delay has been filed. For the reasons stated in the application for condonation of delay, the said delay is hereby condoned.

6. We have heard the counsel for the parties. The petitioner has placed on record copies of the legal notice which is undated and has been placed as Annexure - P3. Annexure - P4 is the copy of receipt of Speed Post.

7. The petitioner/complainant has also produced before this Commission, the empty can of 'redbull'- energy drink. Its MRP is mentioned as Rs.75/-. Learned counsel for the respondent/OP vehemently argued that they are entitled to have this much amount from their customers. He has filed copy of the letter, dated 13.02.2009, written to the DGM (Commercial) Airport Authority of India (IAD), Chennai International Airport, Chennai. At the Second page of the said letter, it is mentioned, as under :-

**"Aerated Drink**

*Pepsi Cane*      *MRP*

*Mineral water*      *MRP*

*Flavoured Milk/*      *40.00*

*Boost/Horlicks*

**Imported Juice**

**(Energy Drink) 140.00"**

8. This is a True copy, which is not signed by any person, except its Proprietor, Shri Pradeep Kumar. It does not bear the endorsement of Airport Authority. It does not have sanction of the Airport Authority of India. However, even if it is assumed that the Airport Authority of India has given its permission, which, otherwise, does not stand proved on the record, we are afraid, they are not empowered to do so. The Airport Authority cannot disturb the MRP rates. There should be some cogent and plausible reason. A person who purchases a 'redbull' energy drink, while standing, is not obliged to pay the fees, which is prescribed for the Restaurant. Restaurants provide service. A Snack Bar, just like a Tea Stall or a Pan/Beedi Stall, hardly provides any service to its customers. It is also noteworthy to mention that the respondent did not contest the case before the District Forum.

9. The learned counsel for the petitioner has invited our attention towards the

authority reported in **Federation of Hotels & Restaurants Association of India & Ors. Vs. Union of India & Ors., 139 (2007) Delhi Law Times 7**, wherein it was held, as under :-

*“16. In England, a hotel under the Hotel Proprietors Act, 1956, is an establishment held out by the proprietor as offering food, drink and if so, required, sleeping accommodation, without special contract, to any traveler presenting himself and who appears able and willing to pay a reasonable sum for the services and facilities provided. This definition, which is also the definition of an inn, still excludes, as formerly, boarding houses, lodging houses and public houses which are merely alehouses and in none of which there is the obligation to receive and entertain guests. An inn-keeper, that is to say, in the present days, a hotel proprietor, in his capacity as an inn-keeper is, on the other hand, bound by the common law or the custom of the realm to receive and lodge in his inn all comers who are travelers and to entertain them at reasonable prices without any special or previous contract unless he has some reasonable ground of refusal (Halsbury’s Law of England, 3<sup>rd</sup> Ed., Vol. 21, 445-446). The rights and obligations of hotel proprietors are governed by statute which has more or less incorporated the common law. The contract between such a hotel proprietor and a traveler presenting himself to him for lodging is one which is essentially a contract of service and facilities provided at reasonable price”.*

10. Counsel for the petitioner has cited far-fetched authority, which has no application, in this case. The cases of the Hotels, Restaurants, Inns, etc., are different. They provide services to its customers. They entertain the customers

at reasonable prices, without any 'special' or 'previous' contract. Those cannot be equated with stalls. No furniture and furnishing is provided by a Stall Owner. No Linen, Crockery and Cutlery is provided to the customers. There is no question of entertainment by music, as per law, laid down in ***Northern India Caterers (India) Ltd., Vs. Governor of Delhi, 17 (1980) DLT 191 (SC) = [1979] 1 SCR 557.***

11. Moreover, the 'redbull' – 'energy drink' is not a 'juice'. It is an 'aerated drink', like a 'Pepsi can'. By no stretch of imagination, it can be said to be an imported juice energy drink.

12. There has been a large number of incidents of exploitation of 'consumers', leading to a constant urge of a panacea. To protect the 'consumers' from the excessive prices charged by the Traders, it is provided that the State declared the rates for the purchase and sale of all marketable commodities, in order to protect the 'consumers', from arbitrary exploitation by the Traders. It is clear that the respondent has been charging 'double' amount. Since the year 2009, and even before it, it must have earned crores of rupees. It led the customers up the garden path. The 'can' does not mention that the OP can charge 'double' of the MRP.

13. From the arguments, it appears that the Airport Authorities are working in cahoots, with the Stall Owners, so that they may pay them higher rate of the licence, which is not permissible, in law. Such like evidence, as the price list, produced by the OP, can be created, at any time, which has got exiguous value.

14. MRP itself, includes the commission/profit, for a 'shop-keeper'. Under these circumstances, we accept the revision petition, set aside the orders of

the fora below and allow the complaint. The OP is directed to pay compensation in the sum of Rs.10,000/- to the complainant, within 90 days, from the receipt of this order, otherwise, it will carry interest at the rate of 9% p.a., till realization. However, it is not the end of the road. The OP has exploited the public, prior to, and after the incident. The public was taken for a ride, under the very nose of the Airport authority. The OP has no right to keep and misappropriate the public money. It must go back to the public. We, therefore, order that the OP will deposit a sum of Rs.50,00,000/-, the estimated rough amount, with the Consumer Welfare Fund, by means of a demand draft drawn in favour of 'Pay and Accounts Officer - Ministry of Consumer Affairs, New Delhi', within 90 days, from the receipt of this order, otherwise, it will carry interest @ 9% p.a., till realization. Thereafter, the Registrar of this Commission shall report.

.....J  
**(J.M. MALIK)**  
**PRESIDING MEMBER**

.....  
**(DR.S.M. KANTIKAR)**  
**MEMBER**