

**NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION
NEW DELHI**

REVISION PETITION NO. 3382 OF 2016

(Against the Order dated 16/08/2016 in Appeal No. 668/2014 of the State Commission Punjab)

1. MADAN LAL

S/O. OM PRAKASH JAIN, R/O. H.NO. 20204, GALI
NO. 18, PARINDA ROAD, GURU TEGH BAHADUR
NAGAR,

BATHINDA

PUNJAB

.....Petitioner(s)

Versus

1. PUNSUP GAS SERVICE & 2 ORS.

THROUGH ITS MANAGER, VEER COLONY, AMRIK
SINGH ROAD,

BATHINDA

PUNJAB

2. BHARAT PETROLEUM CORPORATION LTD.,

THROUGH ITS TERRITORY MANAGER, LPG,
(BATHINDA) A-1 & A-2, PSIEC GROWTH CENTRE
MANSA ROAD,

BATHINDA

PUNJAB

3. BHARAT PETROLEUM CORPORATION LTD.

LPG, THROUGH ITS CHAIRMAN, REGD. OFFICE
BHARAT BHAWAN, 4 & 6, CURRIMBHOY ROAD,
BALLARD ESTATE,

MUMBAI-400001

MAHARASHTRA

.....Respondent(s)

REVISION PETITION NO. 3383 OF 2016

(Against the Order dated 16/08/2016 in Appeal No. 675/2014 of the State Commission Punjab)

1. MADAN LAL

S/O. OM PRAKASH JAIN, R/O. H.NO. 20204, GALI
NO. 18, PARINDA ROAD, GURU TEGH BAHADUR
NAGAR,

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1. BHARAT PETROLEUM CORPORATION LTD. & 2
ORS.

LPG, THROUGH ITS CHAIRMAN, REGD. OFFICE
BHARAT BHAWAN, 4 & 6, CURRIMBHOY ROAD,
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2. BHARAT PETROLEUM CORPORATION LTD.,
THROUGH ITS TERRITORY MANAGER, LPG,
(BATHINDA) A-1 & A-2, PSIEC GROWTH CENTRE
MANSA ROAD,
BATHINDA
PUNJAB

3. PUNSUP GAS SERVICE(DISTRIBUTOR BHARAT
GAS)
THROUGH ITS MANAGER, VEER COLONY, AMRIK
SINGH ROAD,
BATHINDA
PUNJAB

.....Respondent(s)

BEFORE:

**HON'BLE MRS. REKHA GUPTA,PRESIDING MEMBER
HON'BLE MR. PREM NARAIN,MEMBER**

For the Petitioner : In person

For the Respondent :

Dated : 27 Feb 2017

ORDER

1. The present revision petitions have been filed under Section 21(b) of the Consumer Protection Act, 1986 whereby the petitioner seeks to assail the order dated 16.8.2016 passed by the Punjab State Consumer Disputes Redressal Commission, Chandigarh (hereinafter referred to as "the State Commission") in First Appeal No. 668 of 2014. By the impugned order, the order dated 09.04.2014 passed by the District Consumer Disputes Redressal Forum, Bathinda (hereinafter referred to as "the District Forum") in CC. No. 22 of 3.1.2014 has been set aside.

2. The brief facts of the case are that on 21.11.2013 the complainant received one domestic LPG Refill for Rs.1,012/- only (Base price-Rs.969.35+ VAT Tax-Rs. 42.65/-) from Punsup Gas Service (Distributor of Bharat Gas), Veer Colony, Amrik Singh Road, Bathinda. It has been alleged that he received only Rs. 552.89 as subsidy in his bank account, whereas actual subsidy amount was Rs.603.18 which he has ascertained from a RTI question. It is the complainant's case that VAT should have been charged on the amount arrived at by deducting the subsidy from the Base price of the cylinder. Thus, he has claimed that Rs. Rs.26.54/- has been charged extra from him as VAT. It is the case of the complainant that no VAT/sales tax can be levied on the subsidy amount and by deducting the VAT from the subsidy amount, the opposite parties have indulged in unfair trade practice.

3. Aggrieved by the act of the opposite parties, the complainant approached the District Forum.

Proceeding ex-parte against opposite party Nos. 2 and 3, the District Forum vide order dated 9.4.2014 held as follows:-

“11. Therefore in view of what has been discussed above there is unfair trade practice on the part of the opposite parties. Hence this complaint is accepted with Rs. 5,000/- as cost and compensation against the opposite parties. The opposite parties are directed to refund the amount of Rs. 26.54/- (i.e. charged in excess) and Rs.50.29/- (i.e. the amount credited less from the subsidy amount in his account) to the complainant”.

4. Aggrieved by the aforesaid order, the opposite party Nos. 2 & 3 and opposite party No. 1 preferred First Appeal Nos. 675 of 2014 and 668 of 2014 respectively. Vide common order dated 16.08.2016, both the appeals have been allowed and the complaint has been dismissed.

5. Aggrieved by the aforesaid order, the complainant has approached this Commission by way of the present revision petitions.

6. Heard the petitioner and perused records.

7. The petitioner submitted that he received only Rs.552.89 as the subsidy amount in his bank account while he was entitled to Rs. 603.18/-. He also stated that he had paid VAT of Rs. 42.65/- on the base price of Rs.969.35/- at the time of purchase of the gas cylinder. According to the petitioner, the respondents ought to have charged VAT+ surcharge amounting to Rs. 16.11 on the actual amount of Rs. 366.17 after deducting the subsidy amount of Rs.603.18 out of the base price of Rs. 969.35. The petitioner stated that under present scenario, consumers under the Direct Benefit Transfer for LPG (DBTL) scheme pay a higher amount compared to the non-DBTL consumers on account of levy of VAT on the subsidy amount. The petitioner also drew our attention to the letters dated 20.05.2013, 22.08.2013 and 07.09.2013 sent by the then Minister of Petroleum & Natural Gas, Government of India to the Chief Minister of Punjab wherein this issue has also been brought to the attention of the State Government.

8. We have carefully considered the arguments advanced by the petitioner and examined the record. The primary grievance of the petitioner is concerning the levy of VAT on the subsidy amount, which results in higher cost per cylinder for the consumer under the DBTL scheme. In this regard, the State Commission has observed the following:-

“13. We are of the view that as per the above evidence, the appellants have no role as the subsidy amount is sent directly by the Central Govt. to the consumer. It is the Punjab Govt. who has levies the amount of Rs.42.65 as VAT and the same has been charged from the complainant. Thus, the amount of Rs.1012/- has been charged from the complainant including VAT of Rs.42.65. At the time of arguments, the complainant said that now he has being paying less amount for the LPG Cylinder. So the amount which increased or decreased is not on the part of the appellant and it is clear that it is only the Govt. who increased or decreased the amount of the LPG. Therefore, there is no unfair trade practice or deficiency in service on the part of the appellants/OPs, as such, the order of the District Forum is set aside and the appeal is accepted. The complaint of the complainant is dismissed.”

9. From the above observation of the State Commission, one thing is clear that the subsidy is being sent directly by the Central Govt. to the consumer and opposite parties have no role in this

transfer. However, the question remains that as a DBTL consumer has to pay VAT on the total value/ market price being paid at the time of purchase of the cylinder and this price being more than the price of normal subsidised gas cylinder for non-DBTL consumer, the DBTL consumer is paying more VAT in the process. VAT is generally charged on the sale price and perhaps this is the reason why the VAT has been charged on the total base price of the cylinder. However, Central Government has already made a reference to the State Government to rationalise the system of levying VAT so that the DBTL consumer does not end paying more price including VAT than the non-DBTL consumer. Subsidy amounts come later on to the account of the DBTL consumer. As per the State Government Rules regarding VAT, it is being charged on total sale price at the time of purchase. Therefore, we do not find any unfair trade practice by the opposite parties in this regard.

10. Here, it is pertinent to refer to the decision of this Commission in *Chaudhary Ashok Yadav Vs. The Rewari Central Co-operative Bank and Anr*, Revision Petition No.4894 of 2012, decided on 08.02.2013 wherein it has been held that a person seeking benefit of subsidy under a scheme is not a 'consumer', as the subsidy is not a service within the meaning of [Consumer Protection Act](#), 1986, and his remedy does not lie under the [Consumer Protection Act](#), 1986, by filing a complaint and that he can seek relief from a Civil Court, or some other forum, as per law.

11. In the light of the above view taken by this Commission, we hold that the petitioner is not a consumer within the ambit of the Consumer Protection Act, 1986 as he is claiming more subsidy amount in effect. However, it is relevant to note that the Central Government has already taken up this issue with the State Government on several occasions. The petitioner may, however, take up his grievance before the concerned department of the State Government and/or may seek appropriate legal remedy.

12. Based on the above discussion, we dismiss the revision petitions Nos.3382-3383 of 2016 at the admission stage. However, we feel that the issue needs resolution by the State Government. Since the Government of India has repeatedly raised the issue with the State Government, the Registry of this Commission will send a copy of this order to the Chief Secretary, Government of Punjab for necessary action at the level of the State Government to resolve the issue if not already resolved.

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REKHA GUPTA
PRESIDING MEMBER
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PREM NARAIN
MEMBER