



CWP No.1138 of 2025 and CWP No.1141 of 2025

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on 10.07.2025

Date of decision: 30.09.2025

(1)

CWP No.1138 of 2025 (O&M)

Federal Bank Ltd.

... Petitioner

versus

National Consumer Disputes Redressal Commission and others ... Respondents

AND

(2)

CWP No.1141 of 2025 (O&M)

Federal Bank Ltd.

... Petitioner

versus

National Consumer Disputes Redressal Commission and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Shubham Pabbi, Advocate, for the petitioner.

ANUPINDER SINGH GREWAL, J.

As common questions of law and facts are involved in these two writ petitions, they are being disposed of together by this judgment. For reference, facts are being taken from CWP No.1138 of 2025.

2. The petitioner-Bank has impugned the order dated 02.04.2024 (Annexure P-10) passed by the National Consumer Disputes Redressal Commission, New Delhi (hereinafter referred to as 'the National Commission'), order dated 30.05.2016 (Annexure P-9) passed by the Haryana State Consumer Disputes Redressal Commission, (hereinafter referred to as 'the State Commission') and the order dated 16.10.2015 (Annexure P-8) passed by the



District Consumer Disputes Redressal Forum, Panipat (hereinafter referred to as 'the District Forum') whereby the complaint preferred by respondent No.2 has been allowed and the appeal and the revision there-against, have been dismissed.

3. Learned counsel for the petitioner-Bank submits that the petitioner-Bank had performed its obligation as per the instructions of respondent No.2 and delivered the bills to the foreign Bank for collection. It was the foreign Bank-US Bancorp, which did not comply with the instructions and released the documents without payment. The petitioner-Bank is merely a remitting Bank and not the presenting Bank. The responsibility of the petitioner-Bank is very limited and the omission or negligence, if any, on the part of the presenting Bank cannot be attributed to the petitioner-Bank. The International Chamber of Commerce (ICC) Rules for Collections contemplate that the remitting Bank cannot be made to compensate for the negligence on the part of the presenting Bank. He further submits that the complaint against the petitioner-Bank was not maintainable, as respondent No.2 is not a consumer because their services had not been exclusively availed for the purposes of earning a livelihood by means of self-employment. He, therefore, submits that the Commissions/Forum have erroneously held the petitioner-Bank liable for the loss caused to respondent No.2.

4. Heard. Respondent No.2 is stated to have been running a textile business under the name and style of M/s V.K. Tex and had a current account with the petitioner- Bank. He was exporting textiles through his Bankers as well as the Banks of the importer. The petitioner-Bank acts as an agent of respondent No.2. Respondent No.2 received an overseas export order from respondent No.3 in December, 2011. He had exported textiles through various shipments amounting to US \$15202.65 and the petitioner-Bank being his authorized agent

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was instructed through a covering letter that it had full authority to collect the overseas export proceeds and the payments transmitted between respondent No.2/exporter and the consignee of goods, against the delivery of the export documents. The exports and the payments were to be secured by preparation of certain documents which were exchanged by the authorised Banks. The collection of the export proceeds was to be made by the petitioner-Bank from its foreign counterpart Bank. The petitioner-Bank is stated to have released the documents pertaining to the exported goods to respondent No.3 without collecting the payment of US \$15202.65 as per the invoice. Respondent No.2 is stated to have approached the petitioner-Bank for payment in his current account, but as his grievance was not redressed by the officials of the petitioner-Bank, he is stated to have preferred a consumer complaint before the District Forum which was allowed and the order has been upheld by the State Consumer Disputes Redressal Forum.

5. It is evident that the petitioner-Bank facilitated the release of the consignment to the importer without proper authorization and the same indicates that there was gross negligence on its part. The petitioner-Bank being the agent of respondent No.2 had failed to carry out its duties properly. Respondent No.2 had specifically instructed the petitioner-Bank that delivery of documents was to be made only against payment. Indubitably, US Bancorp is a foreign Bank with which the petitioner-Bank had arrangements and respondent No.2 was dealing with the foreign Bank only through the petitioner-Bank. Furthermore, as per the documents containing the payment terms, the exporter retains control of goods through the remitting Bank (i.e. the petitioner-Bank), until the importer makes the payment. If the importer refuses to make the payment, the exporter has the option

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to protest the bill and pursue legal action against the importer. In these circumstances, findings of fact had been recorded by the consumer fora below that the petitioner-Bank is accountable for deficiency of services which resulted in loss to respondent No.2. The petitioner-Bank was held liable to make payment of Rs.7,97,379/- (equivalent to US \$15202.65 according to prevailing conversion rate) to respondent No.2 along with interest @ 9% per annum and Rs.20,000/- as compensation for deficiency in services and causing unnecessary mental agony and harassment.

6. Insofar as the argument of learned counsel for the petitioner-Bank that respondent No.2 is not a 'consumer' is concerned, we find it to be without any merit. 'Consumer' has been defined under Section 2(d) of the Consumer Protection Act, 1986 (hereinafter referred to as 'the Act'). The relevant extract of the definition is reproduced hereunder:-

"2. Definitions. – (1) In this Act, unless the context otherwise requires,—

(d) "consumer" means any person who,—

(i) xxx xxx xxx xxx

*(ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person **but does not include a person who avails of such services for any commercial purpose;***

Explanation.— For the purposes of this clause, "commercial purpose" does not include use by a person of goods bought and used by him and services availed by him exclusively for the



purposes of earning his livelihood by means of self-employment;”
(Emphasis supplied)

7. It is manifest that although any activity with regard to ‘commercial purpose’ is excluded from the purview of the Act, but in the explanation, it has been set out that use by a person of the goods and services for earning his livelihood by means of self-employment would not constitute ‘commercial purpose’ and he would fall under the definition of ‘consumer’ as defined in the Act. Respondent No.2 had stated in his complaint that he was running a ‘home textile business’ and exported textiles out of the country, to earn his livelihood. He relied on the petitioner-Bank to collect the proceeds of the payments etc. from the consignee against the documents of the exports. Livelihood means securing the necessities of life for one’s survival. Self employment is a situation where an individual works for himself rather than working for an employer that pays him a salary/wage. A self employed individual earns his livelihood through conducting profitable operations which he operates directly. The petitioner-Bank has been unable to substantiate before the District Forum the averment that respondent No.2 is not a consumer. Furthermore, no material has been brought on record by the petitioner-Bank to prove that the services availed were to be used for ‘commercial purpose’ and only a bald plea had been taken that respondent No.2 is not a consumer as he was running a business.

8. It is trite that the onus is on the service provider to prove that the service was for ‘commercial purpose’. Reliance in this regard can be placed on the judgment of the Supreme Court in the case of **Shriram Chits (India) Private Limited Earlier Known As Shriram Chits (K) Pvt. Ltd. vs. Raghachand**



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Associates, 2024 INSC 403. The relevant extract of the said judgment is reproduced hereunder:-

*“20. xxx There can hardly be any dispute that the onus of proving the first part i.e. that the person had bought goods/ availed services for a consideration, rests on the complainant himself. **The carve out clause, in the second part, is invoked by the service providers to exclude the complainants from availing benefits under the Act. The onus of proving that the person falls within the carve out must necessarily rest on the service provider and not the complainant.** This is in sync with the general principle embodied in Section 101 and 102 of the Evidence Act that ‘one who pleads must prove’. Since it is always the service provider who pleads that the service was obtained for a commercial purpose, the onus of proving the same would have to be borne by it. Further, it cannot be forgotten that the Consumer Protection Act is a consumer-friendly and beneficial legislation intended to address grievances of consumers. **Moreover, a negative burden cannot be placed on the complainant to show that the service available was not for a commercial purpose.***

21. xx xx xx

22. xx xx xx

23. xxx *The question of inquiring into the third part will only arise if the service provider succeeds in crossing the second part by discharging its onus and proving that the service obtained was for a commercial purpose. **Unless the service provider discharges its onus, the onus does not shift back to the complainant to show that the service obtained was exclusively for earning its livelihood through the means of self-employment.** In the facts of this case, the OP has merely pleaded in its version that the service was obtained for a commercial purpose. No evidence has been led to probabalise its case other than merely restating its claim on affidavit. It is now well too settled that a plea without proof and proof without plea is no evidence in the eyes of law.”*

(Emphasis supplied)



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9. Therefore, the averment that respondent No.2 is not a 'consumer' within the meaning of the Act has not been substantiated by the petitioner-Bank. In the absence of any cogent or convincing material, merely a bald plea that respondent No.2 is not a 'consumer', would not take it out of the purview of the Act.

10. We, therefore, do not find any illegality in the impugned orders whereby findings of fact have been recorded by the Consumer fora below. Consequently, both the petitions being devoid of any merit stand dismissed.

11. Pending application(s), if any, shall stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

30.09.2025

Ramesh

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No