



no.1 and 2 in their written version filed before the District Forum when the complainant-Corporation had initially approached them, in para-2 thereof, had denied that the complainant-Corporation ever purchased the machinery/equipments vide purchase order no.101 and 102. They had totally denied receipt of any letters from the side of the complainant-Corporation with regard to the problem in the machinery. They even completely deny that the machinery/equipments were collected by them through Mr.Kailash Chomal on the 7th of May, 1997. This is a totally false averment, inasmuch as the same very opposite party have in their WS in para 10C filed before this Commission have stated as under :-

"In pursuance of the aforesaid purchase orders placed by the Petitioner, this respondent also paid security deposit of Rs.40,000/- against Purchase Order No.101 and an amount of Rs.33,000/- against Purchase Order No.102. Thereafter, this Respondent arranged for supply of the said equipment in compliance of their obligation under the said Purchase Orders."

29. The supplier/opposite party apart from their audacity to deny that machines were ever purchase by the complainant-Corporation from them, have gone on to even disown their own officers, opposite part no.3 Mr.Dubey & Mr.Chomal. If these persons had no authority to collect the machines, they have not explained how they reached their headquarters, and subsequently even going to the extent of claiming that the machines had been dispatched to the original manufacturer at Switzerland and claiming 6000 Swiss Franks from the Complainant-Corporation, which is not based on facts.

30. On the contrary, the supplier/opposite parties have now submitted that the machines were got repaired from one M/s MTE Service Pvt.Ltd. on payment of Rs.3,57,544/-. The opposite parties were exposed of this false claim by the communication received by the complainant-Corporation from the local representative of the original manufacturer, who in their letter dated 17th of June, 1998 (page 99 of the paper-book) clearly stated that they have not received the defective equipments for repair and may be that the supplier was getting them repaired from some unauthorized sources. The fact that the machines were never sent to Switzerland despite the opposite parties claim stands fully established.

31. We also take note of the argument advanced by the learned counsel for the opposite parties that opposite party no.2 was not the Director of opposite party no.1 at the time of transaction and, therefore, he could not be held liable for any deficiency in person. We outright reject this contention for the simple reason that this assertion runs contrary to the record, inasmuch as in their own written reply filed before the District Forum, Patiala filed on 6th of December, 2000 at page 117 of the paper-book Shri R.P.Aggarwal has been clearly stated to be a Director. Thus, when he was a Director even in December, 2000 to deny his status as a Director runs contrary to their own record and we take serious view of the opposite parties trying to mislead this Commission.

32. We also take note of the fact that the opposite parties have made a false averment that the engineers of the complainant-Corporation had been sent to Switzerland prior to procurement of the equipments/machinery which has been emphatically denied by the complainant-Corporation in their rejoinder.

33. In the totality of the facts and circumstances, we not only find that the opposite parties have been grossly deficient in rendering service but have resorted to totally false and untenable grounds to escape the liability. In our view, they deserve to be sternly dealt with."

The appellants have not controverted the observations contained in the aforesaid paragraphs of the impugned order. Therefore, we do not find any valid ground or justification to entertain the appeal filed under Section 23 of the Consumer Protection Act, 1986.

With the above observations, the appeal is dismissed.

The appellants are directed to pay the amount due to respondent No.1 within a period of two months from today.

.....J.  
(G.S.SINGHVI)

.....J.  
(GYAN SUDHA MISRA)

NEW DELHI;  
SEPTEMBER 17, 2012.

ITEM NO.7

COURT NO.5

SECTION XVII

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
CIVIL APPEAL D.NO(s). 9300 OF 2012 (FOR PREL.HEARING)

M/S SHREE POLYPHASE METERS(I) P.LTD &ANR

Appellant (s)

VERSUS

PUNJAB STATE ELECT.BOARD & ORS.

Respondent(s)

(With appln(s) for condonation of delay in filing appeal and c/delay in re-filing appeal and office report)

Date: 17/09/2012 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr.K.R.Chawla, Adv.  
Mr. Praveen Agrawal, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

Delay condoned.

The appeal is dismissed in terms of the signed order.

(Satish K.Yadav)  
Court Master

(Phoolan Wati Arora)  
Court Master

( Signed order is placed on the file )