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CHAPTER 12

CONSUMER

PROTECTION

INTRODUCTION

With growing competition and in an attempt to increase their sales and market share, manufacturers, sellers and service-providers may be tempted to engage in unscrupulous, exploitative and unfair trade practices like defective and unsafe products, adulteration, false and misleading advertising, hoarding, black-marketing, etc. This means that a consumer might be exposed to risks due to unsafe products, might suffer from bad health due to adulterated food products.

A consumer is said to be a KING in the free market economy. Hence, consumer protection has significance for both consumers and business alike. Under the Consumer Protection Act 2019, the Government of India has conferred a legal protection to safeguard interests of a consumer.

IMPORTANCE OF CONSUMER PROTECTION

The concept of consumer protection is to safeguard the interests of the consumers. It adopts measures to protect consumers from unethical malpractices by businesses and provide a swift redressal of their grievances with regard to:

- 1. Sale of adulterated goods such as adding inferior substances to the product being sold.**
- 2. Sale of counterfeit goods such as selling a product of lesser value than the real product.**
- 3. Sale of sub-standard goods such as the sale of products that do not meet the prescribed quality standards.**
- 4. Sale of duplicate goods.**
- 5. Use of malfunctioning weights and measures that lead to underweight of products.**

6. Charging a product above its Maximum Retail Price.

7. Supplying of defective goods.

8. Misleading advertisements that falsely claim a product or a service to be shown as superior quality, grade or standard when not in real.

From Consumers' point of view

The importance of consumer protection from the consumers' point of view can be understood from the following points:

(i) Consumer Ignorance: In the light of widespread ignorance of consumers about their rights and reliefs available to them, it becomes necessary to educate them about the same so as to achieve consumer awareness.

(ii) Unorganised Consumers: Consumers need to be organised in the form of consumer organisations which would take care of their interests.

(iii) Widespread Exploitation of Consumers: Consumers might be exploited by unscrupulous, exploitative and unfair trade practices like defective and unsafe products, adulteration, false and misleading advertising, hoarding, black- marketing, etc. Consumers need protection against such malpractices of the sellers.

From the point of view of Business

A business must also lay emphasis on protecting the consumers and adequately satisfying them. This is important because of the following reasons:

(i) Long-term Interest of Business: Enlightened businesses realise that it is in their long-term interest to satisfy their customers.

(ii) Business uses Society's Resources: Business organisations use resources which belong to the society. They, thus, have a responsibility to supply such products which are in public interest.

(iii) Social Responsibility: A business has social responsibilities towards various interest groups because business organisations make money by selling goods and providing services to consumers.

(iv) Moral Justification: It is the moral duty of any business to take care of consumer's interest and avoid any form of their exploitation.

THE CONSUMER PROTECTION ACT, 2019

The Consumer protection Act 2019 seeks to protect and promote the consumers' interest through speedy and inexpensive redressal of their grievances. It extends to the whole of India. It is applicable to all types of businesses whether a manufacturer or a trader and whether supplying goods or providing services including e-commerce firms.

WHO IS A CONSUMER?

Under the Consumer Protection Act 2019, a consumer is a person who buys any goods or avails services for a consideration, which has been paid or promised, or partly paid and partly promised, or under any scheme of deferred payment.

NEED FOR CONSUMER PROTECTION

The need for consumer protection arises from the need to protect consumers from the loss or injury or other prevailing malpractices and to ensure:

- 1. Physical safety of a consumer.**

2. Access to information.

3. Corporate Social Responsibility to provide quality and quantity of goods at fair prices.

4. Consumer satisfaction.

5. Survival and the Growth of businesses.

CONSUMER RIGHTS

The Consumer Protection Act 2019 provides for six rights of consumers. These rights include the following:

1. Right to Safety: The consumer has a right to be protected against goods and services which are hazardous to life, health and property.

2. Right to be informed: The consumer has a right to have complete information about the product he intends to buy including its ingredients, date of manufacture, price, quantity, directions for use, etc.

3. Right to be assured: The consumer has the freedom to access variety of products at competitive prices.

4. Right to be heard: The consumer has a right to file a complaint and to be heard in case of dissatisfaction with a good or a service. Many consumer organisations are also working towards this direction and helping consumers in redressal of their grievances.

5. Right to seek redressal: The consumer has a right to get relief against unfair trade practice of restrictive trade practices or unscrupulous exploitation in case the product or a service falls short of his expectations.

6. Right to Consumer Education: The consumer has a right to acquire knowledge and to be a well-informed consumer throughout life. He

should be aware about his rights and the reliefs available to him in case of a product or service falling short of his expectations.

CONSUMER RESPONSIBILITIES

A consumer should keep in mind the following responsibilities while purchasing, using and consuming goods and services —

(i) Be aware about various goods and services available in the market so that an intelligent and wise choice can be made.

(ii) Buy only standardised goods as they provide quality assurance.

(iii) Learn about the risks associated with products and services, follow manufacturer's instructions and use the products safely.

(iv) Read labels carefully so as to have information about prices, net weight, manufacturing and expiry dates, etc.

(v) Ask for a cash memo on purchase of goods or services. This would serve as a proof of the purchase made.

(vi) File a complaint in an appropriate consumer forum in case of a shortcoming in the quality of goods purchased or services availed.

(vii) Form consumer societies which would play an active part in educating consumers and safeguarding their interests.

WAYS AND MEANS OF CONSUMER PROTECTION

A consumers' awareness about their rights and responsibilities is just one of the ways in which the objective of consumer protection can be achieved. There are other ways in which this objective may be achieved.

1. Self-regulation by Business: Socially responsible firms follow ethical standards and practices in dealing with their customers. Many firms have set up their customer service and grievance cells to redress the problems and grievances of their consumers.

2. Business Associations: The associations of trade, commerce and business like Federation of Indian Chambers of Commerce of India (FICCI) and Confederation of Indian Industries (CII) have laid down their code of conduct which lay down for their members the guidelines in their dealings with the customers.

3. Consumer Awareness: A consumer, who is well-informed about his rights and the reliefs available to him, would be in a position to raise his voice against any unfair trade practices or unscrupulous exploitation. In this regard, the Department of Consumer Affairs, GOI, has been undertaking JagoGrahakJago campaign, for generating awareness among consumers.

4. Consumer Organisations: Consumer organisations play an important role in educating consumers about their rights and providing protection to them. These organisations can force business firms to avoid malpractices and exploitation of consumers.

5. Government: The government can protect the interests of the consumers by enacting various measures. The most important of these regulations is the Consumer Protection Act, 2019.

REDRESSAL AGENCIES UNDER THE CONSUMER PROTECTION ACT

For the redressal of consumer grievances, the Consumer Protection Act 2019 provides for setting up of a three-tier enforcement machinery at the District, State, and the National levels, known as the District Consumer Disputes Redressal Commission, State Consumer Disputes Redressal Commission, and the National Consumer Disputes Redressal Commission. They are briefly referred to as the 'District Commission', 'State Commission', and the 'National Commission', respectively. While the National Commission is set up by the

Central Government, the State Commissions and the District Forums are set up, by the State Government.

1. District Commission

District commission has a jurisdiction to entertain complaints where value of goods or services paid as consideration does not exceed one crore rupees. If the complaint alleges defect in goods which cannot be determined without proper analysis or test of goods, the commission obtains the sample of goods, seal it and refer to the appropriate authority for analysis. In case of services, the dispute is settled based on the basis of evidence brought to its notice by the complainant and can ask for any required information document or records from the service provider for settlement.

If any of the parties are not satisfied by the order of District Commission can appeal against such order to the State Commission on the grounds of facts or law within a period of forty five days from the date of order.

2. State Commission

It is established by the respective state government. State Commission has a jurisdiction to entertain complaints where value of goods and services paid as consideration exceeds one crore but does not exceed ten crore rupees. If any of the parties are not satisfied by the order of State Commission can appeal against such order to the National Commission within a period of thirty days of such order.

3. National Commission

The National Commission has territorial jurisdiction over the whole country. National Commission has a jurisdiction to entertain complaints where value of goods or services paid as consideration exceeds ten crores of rupees. If any of the parties are not satisfied by the order of National Commission can appeal against such order to the Supreme Court of India within a period of thirty days of such order.

RELIEF AVAILABLE

Where District or State or National Commission is satisfied about defect in goods, or deficiency in services on any unfair trade practice or claim for compensation under product liability, issues an order:

- (i) To remove the defect in goods or deficiency in service.**
- (ii) To replace the defective product with a new one, free from any defect.**
- (iii) To refund the price paid for the product, or the charges paid for the service.**
- (iv) To pay a reasonable amount of compensation for any loss or injury suffered by the consumer due to the negligence of the opposite party.**
- (v) To discontinue the unfair/ restrictive trade practice and not to repeat it in the future.**
- (vi) Not to offer hazardous goods for sale.**
- (vii) To withdraw the hazardous goods from sale.**
- (ix) To cease manufacture of hazardous goods.**

ROLE OF CONSUMER ORGANISATIONS AND NGOS

In India, several consumer organisations and non-governmental organisations (NGOs) have been set up for the protection and promotion of consumers' interests. Consumer organisations and NGOs perform several functions for the protection and promotion of interest of consumers. These include:

- (i) Educating the general public about consumer rights by organising training programmes, seminars and workshops.**

(ii) Publishing periodicals and other publications to impart knowledge about consumer problems, legal reporting, reliefs available and other matters of interest.

(iii) Carrying out comparative testing of consumer products in accredited laboratories to test relative qualities of competing brands and publishing the test results for the benefit of consumers.

(iv) Encouraging consumers to strongly protest and take an action against unscrupulous, exploitative and unfair trade practices of sellers.

(v) Providing legal assistance to consumers by way of providing aid, legal advice etc. in seeking legal remedy.

(vi) Filing complaints in appropriate consumer courts on behalf of the consumers.

(vii) Taking an initiative in filing cases in consumer courts in the interest of the general public.