

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**M.A. No. 03/2010**

**In**

**CA No. 23/2004**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**Rita Malhotra**

**...Complainant**

**Vs.**

**Meerut Development Authority**

**...Respondent**

**Appearances : Shri Rakesh Vashist, ADG for the DG**

**Oral Order**

**16<sup>th</sup> September 2010**

The matter shall be listed on 14<sup>th</sup> December 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**UTPE 98/2009**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**DG(I&R)**

**...Complainant**

**Vs.**

**M/s Bharti Airtel Ltd.**

**...Respondent**

**Appearances : Shri Rakesh Vashist, ADG for the DG**

**Oral Order**

**16<sup>th</sup> September 2010**

We have perused the complaint. The allegations made in the complaint relates to deficiency of service. That being so, the petition is not maintainable and disposed of accordingly.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

UTPE 103/2009

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

DG(&R) ...Complainant

Vs.

M/s American Express Bank, Mumbai ...Respondent

**Appearances :** Shri Rakesh Vashist, ADG for the DG

Shri Aditya Narain with Dr. V.K.Aggarwal,  
Advocates for the respondent

**Oral Order**  
**16<sup>th</sup> September 2010**

At the request of the respondent, the matter is adjourned. An application under Regulation 65(1)(j) of the Monopolies and Restrictive Trade Practices Commission Regulations 1991 shall be considered when the matter is taken up afresh.

List on 2<sup>nd</sup> December 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

UTPE 110/2009

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

DG(I&R)

...Complainant

Vs.

Gujrat Medicroft Pvt. Ltd.

...Respondent

Appearances : Shri Rakesh Vashist, ADG for the DG

Oral Order

16<sup>th</sup> September 2010

Issue fresh Notice to the respondent. List the matter on  
2<sup>nd</sup> December 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 113/2009

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Ramesh Chandra Gupta

...Complainant

Vs.

Telco Ltd. & Others

...Respondent

Appearances : Applicant in person

Shri Siddharth Dave with Ms. Seema Sundd and  
Ms. Depti Sareen, Advocates for R-1 & 2  
Shri D.K.Mishra, Advocate for R-3

Oral Order

16<sup>th</sup> September 2010

Reply to the application shall be filed within three weeks as  
undertaken by the learned counsel appearing for R- 1, 2 & 3.

List on 2<sup>nd</sup> December 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**RTPE 26/2009**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**M/s Bidwell Securities (P) Ltd.**

**...Complainant**

**Vs.**

**Bombay Stock Exchange Ltd.**

**...Respondent**

**Appearances : Shri Vikas Khurana, Advocate for the**  
**complainant**

**Shri Dileep Poolakkot, Advocate for the**  
**respondent**

**Oral Order**

**16<sup>th</sup> September 2010**

The matter shall be listed on 2<sup>nd</sup> December 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

RA 33/2010 in  
UTPE 02/2001

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

Sunita Gupta

...Complainant

Vs.

Prestige Holidays Resorts Ltd.

...Respondent

Appearances : Shri Ashwani Goel, Advocate for the  
complainant/applicant

**Oral Order**

**16<sup>th</sup> September 2010**

Heard. The order dated 23.2.2010 is recalled. The UTPE is  
restored to its original position.

List on 3<sup>rd</sup> December 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

MA \_\_\_\_\_ in  
CA 68/2004

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

Rajpuria Marketing ...Complainant

Vs.

M/s Hindustan Uniliver Ltd. ...Respondent

Appearances : Shri Bipin Kalappa, Advocate for the applicant

Shri Aditya Narain with Dr. V.K.Aggarwal,  
Advocates for the respondent

**Oral Order**

**16<sup>th</sup> September 2010**

List on 3<sup>rd</sup> December 2010 as prayed for by the learned counsel  
for the applicant.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**



**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

RA 04/2010  
In  
CA 75/1995

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Kanpur Wire Manufacturing Assn.& Ors.

...Complainant

Vs.

Rashtriya Ispat Nigam Ltd.

...Respondent

Appearances : Applicant in person

Oral Order

16<sup>th</sup> September 2010

At the request of the applicant, the matter is adjourned to  
3<sup>rd</sup> December 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 97/2002

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

Shiv Tax Com Agency

...Complainant

Vs.

Siya Ram Silk Mills Ltd. & Ors.

...Respondent

Appearances : Shri K.L.Kaushal, Advocate for the complainant

Ms. T.Rajkumari, Advocate for R-1, 2 & 3  
Shri amlon Ghosh, Advocate for R-4

**Oral Order**

**16<sup>th</sup> September 2010**

List on 28<sup>th</sup> September 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**UTPE 15/2004**  
**CA 29/2004**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**Mahesh Kapoor**

**...Complainant**

**Vs.**

**Ansal Properties & Industries Ltd.**

**...Respondent**

**Appearances : Applicant in person**

**Shri Arun Monga with Shri Vivek Sharma,**  
**Advocate for the respondent**

**Oral Order**

**16<sup>th</sup> September 2010**

List this matter on 11<sup>th</sup> November 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 15/2008

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Smt. Sadhna Agarwal

...Complainant

Vs.

Shri Umesh Singh

...Respondent

Appearances : Shri S.K.Jha, Advocate for the applicant

Oral Order

16<sup>th</sup> September 2010

As a last chance, three week's time is granted to file the affidavit of evidence. If any documents are filed, admission/denial shall take place on 7<sup>th</sup> October 2010.

The matter shall be listed on 9<sup>th</sup> November 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 110/1995

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Surya Scooter ...Complainant

Vs.

Canara Bank & Anr. ...Respondent

Appearances : Shri Shekhar Gupta, Advocate for the  
complainant

None for the respondent

Oral Order

16<sup>th</sup> September 2010

None appears for the respondent.

The matter shall be listed on 11<sup>th</sup> November 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 64/1998  
CA 81/1998

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Ansal Housing & Construction Co. Ltd. ...Complainant

Vs.

M/s Kinetic Eleverors ...Respondent

**Appearances :** Shri P.K.Mittal, Advocate for the applicant

Shri H.P.Singh, Advocate for the respondent

**Oral Order**  
**16<sup>th</sup> September 2010**

Let the undertakings given on 6<sup>th</sup> August 2009 be carried out within four weeks. Copy be supplied to the learned counsel for the applicant.

The matter shall be listed on 9<sup>th</sup> November 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 330/1998  
CA 360/1998

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Ansal Housing & Construction Co. Ltd.   ...Complainant

Vs.

M/s Kinetic Eleverors   ...Respondent

Appearances : Shri P.K.Mittal, Advocate for the applicant

Shri H.P.Singh, Advocate for the respondent

Oral Order

16<sup>th</sup> September 2010

Let the undertakings given on 6<sup>th</sup> August 2009 be carried out within four weeks. Copy be supplied to the learned counsel for the applicant.

The matter shall be listed on 9<sup>th</sup> November 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**UTPE 57/2000**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**DG(I&R)**

**...Complainant**

**Vs.**

**M/s Campa Beverages (P) Ltd.**

**...Respondent**

**Appearances : Shri R.D.Makheeja, Advocate for the DG**

**Oral Order**

**16<sup>th</sup> September 2010**

Summons have been served. Since the Applicant's witness has not appeared in spite of summons, his evidence is closed. The affidavit of evidence of the respondent shall be filed within four weeks. If any documents are annexed, the admission/denial shall take place on the 6<sup>th</sup> October 2010.

The matter shall be listed on the 12<sup>th</sup> November 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**



**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 83/2002

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

S.P.Verma & Anr. ...Complainant

Vs.

Prestige Holidays Resorts  
Ltd. & Ors. ...Respondent

Appearances : Shri S.L.Bajaj, Advocate for the applicant

Shri Rajiv Talwar, Advocate for R- 1 & 2  
Shri Amit Kumar Mishra, Advocate for R-3

**Oral Order**

**16<sup>th</sup> September 2010**

Cross-examination deferred. The matter shall be listed on the  
11<sup>th</sup> November 2010

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 107/2002

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

**P.Tex Builders (I) Ltd.**

**...Complainant**

**Vs.**

**UPSIDC**

**...Respondent**

**Appearances : Shri G.P.Pandey, A/R of the applicant**

**Shri M.D.Sharma, Advocate for respondent**

**Oral Order**

**16<sup>th</sup> September 2010**

At the request of the applicant, the matter is adjourned to 11<sup>th</sup>  
November 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**RTPE 06/2007**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**DG(I&R)**

**...Complainant**

**Vs.**

**GAIL (India) Ltd.**

**...Respondent**

**Appearances : Shri Rajesh Arya with Ms. Anjani Mahajan and  
Shri Abhishek Swarup, Advocates for the  
complainant**

**Shri A.N.Haksar, Advocate for the respondent**

**Oral Order**

**16<sup>th</sup> September 2010**

It is stated by the Informant that the only witness to be examined by the Informant and the DG is Shri Ajay Kumar Gupta. Let him appear on the 11<sup>th</sup> November 2010 for the proper cross-examination by the respondent.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**UTPE 78/2006**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**DG(I&R)**  
**CDR. Anil Goyal, ...Complainant**

**Vs.**

**Kanakia Construction ...Respondent**

**Appearances : Applicant in person**  
**Shri Rishi Aggarwal, Advocate for the**  
**respondent**

**Oral Order**  
**16<sup>th</sup> September 2010**

Cross-examination continued in respect of the material which the applicant was directed to place on record.

Cross-examination concluded.

The affidavit of evidence of the respondent shall be filed within three weeks. If any documents are filed, admission/denial shall take place on the 26<sup>th</sup> October 2010.

The matter shall be listed on the 1<sup>st</sup> November 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**CA 06/2008**

**Hon'ble Dr. Justice Arijit Pasayat**  
**Chairman**

**Hon'ble Shri Rahul Sarin,**  
**Member**

**Hon'ble Ms. Pravin Tripathi**  
**Member**

**In the matter of :**

**Ferryman Chemicals Labaoratories** **...Complainant**

**Vs.**

**Dabur India Ltd.** **...Respondent**

**Appearances : Shri R.L.Goel, Advocate for the applicant**

**Ms. Meenakshi Singh, Advocate for the  
respondent**

**Oral Order**

**16<sup>th</sup> September 2010**

The applicant states that he does not press this Compensation Application. The same is disposed of accordingly.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 43/2005

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

In the matter of :

Pradeep Kumar

...Complainant

Vs.

HDFC Bank Ltd.

...Respondent

Appearances :

Oral Order

16<sup>th</sup> September 2010

List on 11<sup>th</sup> November 2010.

( Dr. Justice Arijit Pasayat )  
Chairman

( Rahul Sarin )  
Member

( Pravin Tripathi )  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

CA 04/2007

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Shri Rahul Sarin,  
Member

Hon'ble Ms. Pravin Tripathi  
Member

**In the matter of :**

Effectron Luminex Ltd. & Anr. ...Complainant

Vs.

Amrita Enterprises Pvt. Ltd. ...Respondent

**Appearances :** Shri Gauarav Bahl. Advocate for the applicant

Shri Ramesh Babu, Advocate for the respondent

**Oral Order**

**16<sup>th</sup> September 2010**

Cross-examination deferred. Further cross-examination shall  
be listed on 11<sup>th</sup> November 2010.

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**CA 83/2002**

**Statement of Shri B.S.Ranganatha, S/o Mr. B.R.Srinath R/o Pine Valley, Embassy Golf Links,**

**ON OATH**

I have seen the affidavit dated 9<sup>th</sup> February 2009 . It has been signed and sworn by me. It is exhibited as RW 3/1.

**Cross-examination by Shri S.L.Bajaj, Advocate for the applicant**

Since September 2008 I am the Legal Counsel of Respondent No. 3 (RCI).

The dispute relates to an Agreement of 1995 which is between R-1, 2 & 4.

I am aware of the Clause No. 4 of the Agreement dated 3<sup>rd</sup> November 1995 which speaks of affiliation of the Resort to RCI.

I will have to check up if the copy of the Agreement referred to above has been lodged with by either R-1, R-2 or R-4.

The Resort was affiliated to RCI under affiliation number 3820.

The purchaser has not made any payment directly to us for enrollment Fee or initial Membership Fee in terms of Clause 4.

I will have to check up whether the company i.e. Prestige Holidays Resorts Ltd. has made any payment in terms of Clause 4 of the Agreement to us (Three week's time is granted to the witness to furnish the details).

In good faith, in the normal course of business, the developer is permitted to use the logo of R-3.

Cross-examination deferred.



**RO&AC**

**( Dr. Justice Arijit Pasayat )  
Chairman**

**( Rahul Sarin )  
Member**

**( Pravin Tripathi )  
Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**UTPE 78/2006**

**Statement of Wg. Cdr.(Retd.) Anil Goyal, S/o Mr. HC Goyal, R/o 710, Maitri Apartments, Plot – 17, Sector- 10, Dwarka, New Delhi - 110075**

**ON OATH**

I have seen the affidavit dated 29<sup>th</sup> April 2009. It has been signed and sworn by me. It is exhibited as RW 3/1.

**Further Cross-examination by Shri Rishi Aggarwal, Advocate for the respondent**

The respondent could have, at the most asked for 10% of the cost, even as per the schedule suggested by the respondent, which I deny.

It is a fact that I had received a letter on 17<sup>th</sup> February 2006 demanding Rs. 8,22,744/-. In fact, I had gone to the office of the respondent with two cheques which were not accepted and it was told to me that unless I withdraw the present case filed before the Commission, no payment shall be received from me.

The fact that I went to make the payment is evident from my email dated 18<sup>th</sup> February 2006.

Along with my affidavit of evidence, I have filed photocopies of the cheques.

I demanded Registration of the Agreement, as the requisite 15% of the total cost had been paid and that entitled me for a registration of the Agreement.

I had given the signed agreement for registration which the respondent never did.

I don't remember the exact date and/or having signed it.

The payments made by me on 6<sup>th</sup> March 2007 was pursuant to the directions given by the MRTP Commission.

Under MRTPC directions, I did calculation of interest due @ 12% as per the agreement payment schedule and forwarded the same to all concerned.

Cross-examination concluded.

**RO&AC**

**( Dr. Justice Arijit Pasayat )  
Chairman**

**( Rahul Sarin )  
Member**

**( Pravin Tripathi )  
Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**CA 04/2007**

**Statement of Shri P.G.M.Chettiar S/o P.Gopalan Chettiar, General Manager (Commercial) of Amrita Enterprises Pvt. Ltd. Gandhi Nagar, Vazhuthacaud, Thiruvananthapuram, Kerala**

**ON OATH**

I have seen the affidavit dated 24<sup>th</sup> June 2009. It has been signed and sworn by me. It is exhibited as RW 1/1.

**Further Cross-examination by Shri Gaurav Bahl, Advocate for the applicant**

I am General Manager(Commercial) of the Respondent No. 1.

I hold the Power of Attorney to depose on behalf of the respondent. If time is granted, I shall file the copy thereof.( Three week's time is granted for the purpose).

Two Agreements were executed between the parties.

I am aware of the contents of these Agreements.

Cross-examination deferred.

**RO&AC**

**( Dr. Justice Arijit Pasayat )**  
**Chairman**

**( Rahul Sarin )**  
**Member**

**( Pravin Tripathi )**  
**Member**

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**Miscellaneous Application No. 03/2010 IN**  
**Miscellaneous Application No. \_\_\_/2010 IN**  
**Compensation Application No.23 of 2004**

**CORAM**

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Mr. Rahul Sarin  
Member

Hon'ble Mrs. Pravin Tripathi  
Member

**IN THE MATTER OF :-**

Rita Malhotra .....Applicant

Versus

Meerut Development Authority .....Respondent

Appearances : Mr. Sunil Malhotra, Advocate for the applicant.

Mr. C.B.N. Babu, Advocate for the respondent.

**ORDER**

**DR. JUSTICE ARIJIT PASAYAT, CHAIRMAN**

**Miscellaneous Application No. 03/2010 (Order VI Rule 17 CPC)**  
**Miscellaneous Application No. \_\_\_/2010 (Order 12 Rule 6 CPC)**

An application has been filed under Order 12 Rule 6 read with Section 151 of the Code of Civil Procedure, 1908 (in short the 'CPC'). The applicant had filed the Compensation Application claiming refund of Rs.66,166/- as principal amount paid by her to Meerut Development Authority (in short 'MDA') along with interest, costs, damage etc. According to the applicant, the aforesaid Compensation Application was filed because the respondent had received aforesaid amount for allotment of plot Type B-1, bearing No.2/303 measuring 250 sq. mtrs. In Sector-VIII, Shatabdi Nagar,

Phase-II, Meerut. Since no development took place, the application for refund along with interest was filed. The respondent in the preliminary submission in the reply to the main application mentioned as follows :-

- “i. The Applicant herein deposited a sum of Rs.12,500/- in December, 1989 towards the plot on installment basis for a total sale consideration of Rs.1,25,000/-. Thereafter the Respondents allotted a Plot Type No.B-1 Property No.2/303 measuring 250 yards by the Letter of Allotment dated 31.01.1990 with a condition that the Applicant herein has to deposit the allotment money of Rs.25,000/- before 28.02.1990 towards the said Plot. The Applicant deposited the said money.
  - ii. But subsequently due to opposition from the farmers the pre-development of the land could not be done at Plot No.2/303 Sector 8 allotted to the Applicant herein”.
2. According to the applicant the respondent admitted in para-6 of the parawise reply that the respondent MDA is always ready and willing to give an alternative plot in a developed sector. It was admitted in the para-7 of the parawise reply that if the applicant so desires even at the stage, the respondents MDA are prepared to allot her a plot in developed sector subject to payment of the required amount of installments applicable as on dates. It was also admitted in para-8 of parawise reply that all facilities are made available by the Respondents in the Shatabdi Nagar Residential Scheme and if the applicant deposits the money according to the pre-decided installments with rate of interest, the Respondent Authority is ready to allot the plot. The applicant has submitted that since the respondent in their reply has stated that they are ready and willing to provide an alternative plot, a judgment in terms of Order 12 Rule 6 CPC be passed and respondent be directed to allot the alternative developed

plot in the original terms and conditions in the developed Sector in Shatabadi Nagar Scheme based in Meerut. Another application has been filed in terms of Order VI Rule 17 CPC.

3. In the reply, the respondent MDA has stated that the application is misconceived as the substratum of the dispute is sought to be changed. It is stated by the respondent that earlier the applicant was given the option of choosing an alternative plot, she did not do so. The belated effort is mala-fide because the price of property has gone up.

4. Undisputedly the basic grievance of the applicant is non-allotment of the plot which according to her was promised to her for which she made the payment. Since the plot was not developed, she had in the Compensation Application prayed for refund of the money, but with reference to the reply filed, the prayer for amendment has been made. Whether such relief can be granted on the basis of the amended plea is a matter of consideration at a subsequent stage. Order 12 Rule 6 CPC and Order VI Rule 17 CPC operate in two different fields. Order VI Rule 17 CPC consists of two parts. The first part is discretionary and leaves it to the Court to order amendment of pleading. The second part is imperative and enjoins on the Court to allow all amendments which are necessary for the purpose of determining the real question in controversy between parties. {See *Gautam Sarup Vs. Leela Jetly and Ors.* , 2008 (7) SCC 85}, the object of the rule is that the courts should try the merits of the case that come before them and should, consequently, allow all amendments that may be necessary for determining the real question in controversy between the parties provided it does not cause injustice or prejudice to the other side. In other words parties have to

be given a chance to contest the question in controversy and the Court has to give its decision ultimately on such contested suits. The power of amendment is granted to the Court in larger interest of doing full justice to the parties. The whole object and purpose of Order VI Rule 17 in the CPC is to avoid multiplicity of proceedings and/ or to settle the litigation and to settle the entire dispute at rest. Any amendment should not or must not jeopardize the case of other side in such manner which causes to non-suit the other side. In the aforesaid background, the prayer for amendment is allowed. It is, however, made clear that the acceptability of the prayer on the basis of the amendment shall be considered when the matter is taken up for disposal on merits. The amended petition shall be filed within three weeks. The Miscellaneous Application is disposed of.

5. Provisions of Order 12 Rule 6 have been enacted for the purpose of expediting adjudication in the face of admission on the part of the Defendant (See *Uttam Singh Duggal & Co. v. Union Bank of India*, AIR 2000 SC 2740). The purpose is to avoid waiting by the Plaintiff for part of the decree when there is a clear, unequivocal unambiguous and unconditional admission of the Defendant in respect of the claim of the Defendant. The rule only secures that if there is no dispute between the parties, and if there is on the pleadings or otherwise such an admission as to make it plain that Plaintiff is entitled to a particular order or judgment he should be able to obtain it at once to the extent of admission. But the rule is not intended to apply when there are serious questions of law to be asked and determined. Likewise, where specific issues have been framed in spite of purported admission on the part of the Defendant, the Plaintiff would be bound to lead evidence on those issues and



prove the same before he becomes entitled to decree and the Plaintiff in that event cannot have a decree by virtue of provision of Order 12 Rule 6 CPC without proving the issue.

6. In the instant case the claim is for refund of money and issues were framed on 6<sup>th</sup> July, 2006. The reply was filed on 20<sup>th</sup> April, 2005. There is in fact no unconditional, clear, unambiguous or unequivocal admission that applicant is entitled to an alternative plot. Order 12 Rule 6 CPC has no application to the facts of the present case, and the application deserves dismissal, which we direct.

7. The Miscellaneous Applications are accordingly disposed of.

Pronounced in open Court on 16<sup>th</sup> day of September, 2010.

(Dr. Arijit Pasayat)  
Chairman

(Rahul Sarin)  
Member

(Pravin Tripathi)  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**I.A. No. 02 OF 2009**  
**UNFAIR TRADE PRACTICES ENQUIRY NO. 01 OF 2009**

**CORAM**

Hon'ble Dr. Justice Arijit Pasayat  
Chairman

Hon'ble Mr. Rahul Sarin  
Member

Hon'ble Mrs. Pravin Tripathi  
Member

**IN THE MATTER OF :-**

S. B. Tripathi,  
Advocate,  
62, Lawyers Chamber,  
Supreme Court  
New Delhi-110001.

....Complainant

Versus

Mahanagar Telephone Nigam Limited,  
Through its General Manager,  
Janak Puri,  
New Delhi.

....Respondent

Appearances : Complainant in person  
Ms. Poonam, Advocate for the Respondent

**ORDER**

**DR. JUSTICE ARIJIT PASAYAT, CHAIRMAN**

The present complaint has been filed purportedly under Section 36B read with Section 10(b) and 12-B of the Monopolies and Restrictive Trade Practices Act, 1969 (in short the '**Act**'). Basic grievance is that the bills raised by the respondent are exorbitant and therefore is indulging in unfair and restrictive trade practices. The respondent has filed its reply. It has been pointed out that the complainant's telephone No. 25078242 was put on "SABLA OBSERVATION" on various occasions e.g. 1.10.2007 to 31.12.2007; 25.01.2008 to 12.02.2008 and 24.06.2008 to 04.07.2008 on his

various requests. It has also been pointed out that the complainant had opted various plan from December, 2005 onwards such as Plan-250 till 2006, Plan-500 valid from 16th June, 2006 to 2<sup>nd</sup> March, 2007, Plan-250 valid from 3<sup>rd</sup> March, 2007 till date. He also availed the dial-up internet through access number 172230 / 172231 and had on the said landline number and had long duration outstation STD/Mobile calls on various numbers. About the grievance of the complainant that he should be supplied details of the local calls it is pointed out that when a phone is put on SABLA OBSERVATION the details can be given for a period of 15 days only. The details have been supplied for the relevant period.

2. Heard the learned counsel for the parties.
3. Learned counsel for the respondent –MTNL raised preliminary objections regarding the maintainability of proceedings. It was submitted that a special remedy is provided in Section 7B of the Indian Telegraph Act, 1885 (in short the 'Telegraph Act') and therefore the Commission has no jurisdiction to deal with the matter.
4. Section 7B of the Telegraph Act reads as follows:

7B. Arbitration of Disputes –

- (1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by arbitration and shall, for the purposes of such determination, be referred to an arbitrator appointed by the Central Government either specifically for the determination of that dispute or generally for the determination of disputes under this section.
- (2) The award of the arbitrator appointed under subsection (1) shall be conclusive between the parties to the dispute and shall not be questioned in any court.

5. A bare reading of the aforesaid provision makes the position clear that a special remedy is provided regarding disputes enumerated

in Section 7B of the Telegraph Act. That being so by implication the remedy under the Act is barred.

6. Rule 413 of the Indian Telegraph Rules, 1951 (in short the 'Telegraph Rules') provides that all services relating to telephone are subject to Telegraph Rules. Disputes of the present nature can be adjudicated by the Arbitrator.

7. At this juncture it would be appropriate to take note of the two decisions of the Supreme Court in General Manager, Telecom v. M. Krishnan & Anr. Reported in 2009 CTJ 1062 (SC) = (C.A. No. 7687 of 2004) decided on 1<sup>st</sup> September, 2009, in an identical dispute the Supreme Court held that in view of the availability of a special remedy under Section 7B of the Telegraph Act, remedy under the Consumer Protection Act, 1986 (in short the 'Consumer Act') is barred. In Chairman, Thiruvalluvar Transport Corpn. V. Consumer Protection Council, 1995 CTJ 193 (SC) (CP) = (1995(2) SCC 479) it was held that the National Commission under the Consumer Act has no jurisdiction to adjudicate upon claims for compensation arising out of motor vehicle accidents in view of the jurisdiction conferred on a claims Tribunal constituted under Motor Vehicles Act, 1988 (in short M.V. Act).

8. In view of the aforesaid two decisions of the Supreme Court, the preliminary objection of lack of jurisdiction is well founded. The complaint is dismissed. It is however open to the complainant to avail such remedies as is available in law.

In view of order in UTPE No. 01 of 2009, no separate order is necessary in I.A. No. 02/2009.

Order pronounced in open Court today i.e. \_\_\_\_ day of September, 2010.

(Dr. Arijit Pasayat)  
Chairman

(Rahul Sarin)  
Member

(Pravin Tripathi)  
Member

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**16.09.2010**  
**RTPE 22/2008**

**IN THE MATTER OF:**

**D.G. (I&R)**

**Vs.**

**M/S. PIONER FRICTION LTD. & ORS.**

**APPEARANCES: Shri Om Prakash, STA for D.G. (I&R).**

**Sh. Prerna Mehta, Advocate for R-1**

**Dr. V.K. Aggarwal, Advocate for R-2**

**Sh. U.P. Mathur, Advocate for R-3**

**Ms. Sneha Kakarnia, Advocate for R-4**

**Sh. Rahul, Advocate for R-5**

The matter is fixed for admission/denial of the DG's documents.

The learned counsel for the R-1 admitted the document at serial number 5 of the notice to admit documents dated 04.06.2010. Receipt alone of the document at serial number 3 is admitted and its contents are denied. It is stated that all the other documents do not pertain to them.

The learned counsel for the R-2 admitted the document at serial no. 6 of the notice to admit documents dated 04.06.2010. Receipt alone of the document at serial number 3 is admitted and its contents are denied. It is stated that all the other documents do not pertain to them.

-2-

The learned counsel for the R-3 admitted the document at serial no. 7 of the notice to admit documents dated 04.06.2010. Receipt alone of the document at serial number 3 is admitted and its contents are denied. It is stated that all the other documents do not pertain to them.

The learned counsel for the R-4 admitted the documents at serial no. 8 of the notice to admit documents dated 04.06.2010. Receipt alone of the document at serial number 3 is admitted and its contents are denied. It is stated that all the other documents do not pertain to them. Further, he states that the original documents are not been filed by the D.G. (I&R) and that admission/denial done by them is subject to filing of original documents by the D.G.(I&R). The representative of the D.G. (I&R)

states that the original documents are there and he is ready to show them to all the respondents.

The learned counsel for R-5 admitted the documents at page nos. 100 and 102 (three pages only) of the notice to admit documents dated 04.06.2010. Receipt alone of the document at serial number 3 is admitted and its contents are denied. It is stated that all the other documents do not pertain to them.

The matter shall be placed before the Hon'ble Tribunal on 25.10.2010.

(V. Sreenivas)

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**16.09.2010**  
**CA 87/2007**

**IN THE MATTER OF:**

**M/S. RAINBOW COLOUR LAB**  
**Vs.**  
**M/S. ESS DEE NUTEK INFINITIES PVT. LTD.**

**APPEARANCES:None for the applicant.**

**Sh. V.K. Sharma, Advocate for the respondent.**

The matter is fixed for admission/denial of the Respondent's documents.

The admission/denial has not taken place today as the applicant is not represented.

The matter shall be placed before the Hon'ble Tribunal on 11.11.2010.

(V. Sreenivas)



**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**16.09.2010**  
**UTPE 07/2007**

**IN THE MATTER OF:**

**D.G. (I&R)**  
**Vs.**  
**M/S. HUDA**

**APPEARANCES:Sh. RK Makheeja, Advocate along with Sh. Om  
Prakash, STA for D.G. (I&R)**

**None for the Respondent.**

The matter is fixed for admission/denial of the Respondent's documents.

The learned counsel for the D.G.(I&R) states that no documents are filed by the respondent authority. The admission/denial has not taken place today as the respondent is not represented today.

The matter shall be placed before the Hon'ble Tribunal on 25.10.2010.

(V. Sreenivas)

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

16.09.2010  
CA 72/2006

**IN THE MATTER OF:**

**M/S. PRASHANT INDUSTRIES LTD.**  
**Vs.**  
**BHARAT HEAVY ELECTRICALS LTD.**

**APPEARANCES:Sh. Dattatray Vyas, Advocate for the applicant.**

**Sh. Shiladitya Goswami, Proxy counsel for Sh.**  
**Gaurav Kant, Advocate for the respondent.**

The matter is fixed for admission/denial of the Applicant's documents.

The applicant as filed certain documents on 16.01.08 and admission/denial of these documents took place on 04.04.08. Admission/denial of the additional documents filed by the applicant on 4.12.08 took place on 12.5.10. The admission/denial of both the sets of documents filed by the applicant is completed.

The matter shall be placed before the Hon'ble Tribunal on 25.10.2010.

(V. Sreenivas)

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**16.09.2010**  
**UTPE 69/2006**

**IN THE MATTER OF:**

**D.G.(I&R)**  
**Vs.**  
**NEXT RETAIL INDIA LTD.**

**APPEARANCES:Sh. Om Prakash, STA for D.G.(I&R).**

**None for the respondent.**

The matter is fixed for admission/denial of the D.G.'s documents.

The D.G. (I&R) serves the notice of admit documents and the affidavit on Sh. Paresh, clerk of Sh. R.K. Sharma, Advocate for the respondent. The admission/denial has not taken place today.

The matter shall be placed before the Hon'ble Tribunal on 25.10.2010.

(V. Sreenivas)

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

16.09.2010  
CA 54/2007

**IN THE MATTER OF:**

**SH. RAGHUBIR SINGH DINKAR**  
**Vs.**  
**M/S. DURGA BUILDERS PVT. LTD.**

**APPEARANCES:Sh. R.D. Makheeja, Advocate along with the  
applicant**

**None for the respondent.**

The matter is fixed for admission/denial of the Applicant's documents.

The admission/denial has not taken place today as the respondent is not represented.

The matter shall be placed before the Hon'ble Tribunal on 30.09.2010.

(V. Sreenivas)

**COMPETITION APPELLATE TRIBUNAL**  
**NEW DELHI**

**16.09.2010**  
**UTPE 98/2007**

**IN THE MATTER OF:**

**D.G.(I&R)**  
**Vs.**  
**M/S. BATA INDIA LTD.**

**APPEARANCES:Sh. Om Prakash, STA for D.G. (I&R)**

**Sh. Aditya Narain, Advocate for the respondent.**

The matter is fixed for admission/denial of the Respondent's documents.

The learned counsel for the respondent seeks some more time to file the documents. With consent to both the parties, admission/denial shall now take place on 29.09.2010

(V. Sreenivas)