

CENTRAL CONSUMER PROTECTION AUTHORITY
Room No.567-A, Krishi Bhawan, New Delhi-110001

Ref:F.No.J-25/4/2022-CCPA

In the matter: Case against Luminous Power Technologies Pvt. Ltd. with regard to misleading advertisement and unfair trade practice.

CORAM:

Smt. Nidhi Khare, Chief Commissioner, CCPA

Shri Anupam Mishra, Commissioner, CCPA

Appearance on behalf of Luminous Power Technologies Pvt. Ltd.

- (i) Shri Himanshu Balajee, AGM Legal,
- (ii) Shri Ashish Pandey, Head Legal and Company Secretary
- (iii) Shri Deepak Chawala, Advocate,
- (iv) Shri Akash, Advocate

Date: 28.08.2023

ORDER

This is a case taken up by the Central Consumer Protection Authority (CCPA) based on a complaint dated 24.03.2022 alleging that misleading advertisement and unfair trade practice are being adopted by Luminous Power Technologies Pvt. Ltd. (opposite party) by way of making blatant claim of '36* Months Warranty' on their packaging box of Luminous Inverter Battery RC 18000 without clarifying that full warranty for the product is not available for 36 Months.

2. Accordingly, CCPA conducted a preliminary inquiry to examine the above claim made by the opposite party which was prejudicial to the interest of consumers as a class. As per the preliminary inquiry report, it was found that while the packaging box of the impugned product prominently claimed '36* Months Warranty', it did not disclose the true classification of warranty for free replacement as mentioned in the warranty card i.e. 0-18 months from the date of the sale or 0-21 months from the date of manufacturing and 19-36 months for new battery at 20% discount on the prevailing maximum retail price. Also, the invoice by the distributor only mentioned 36 months.

3. It may be accentuated here that disclosures should be placed in the advertisement in such a manner that they are clear, prominent and extremely hard to miss and it should be superimposed over the image enough for viewers to notice. However, in the above matter company failed to prominently display the asterisk mark to the common consumer along with the honest representation of the terms and conditions of warranty. Thus, prima facie it appeared a case of misleading advertisement and unfair trade practice under the Consumer Protection Act, 2019.

4. Hence, a Notice dated 06.04.2022 along with the annexures of the packaging box was issued by CCPA to Luminous Power Technologies Pvt. Ltd. & Ample Power Solutions (distributor of company) to furnish their response within 15 days on the veracity of claim made through the advertisement along with supporting documents. However, on failure to submit reply, reminders dated 24.11.2022 and 09.01.2023 were issued.

5. A reply dated 24.02.2023 was received from Shri Himanshu Kumar Balajee, Sr. Manager Legal, Luminous Power Technologies Pvt. Ltd. (opposite party) submitting that:

- i. The packaging box of Luminous Inverter Battery Model RC 18000 and the official warranty card of the company depict warranty as '36* Months' with certain terms and conditions (duration of service/replacement).
- ii. The Ample Power Solution, one of the distributors of the opposite party failed to convey the said terms and conditions and had sold the product under wrong impression that the battery was under free replacement warranty for entire '36 Months' from the date of purchase.
- iii. Opposite party has not dealt with the consumer directly and has not used any means which could be said to be an unfair trade practice.

6. In view of the above submissions, the Director General (Investigation) was requested to investigate the matter in detail and submit its report to the Central Authority.

7. In its Investigation Report vide email dated 31.07.2023 DG Investigation highlighted that:

- i. The opposite party provides two types of warranty:
 - a. Free replacement: 0-18 months (from date of sale) / 0-21 months (from the date of manufacturing) whichever is earlier.
 - b. 20% discount on the prevailing MRP: 19-36 months.
- ii. On further examination, it was found that the opposite party had not mentioned the above criteria of warranty on the packaging box of Luminous Inverter Batteries Model RC 18000 against the mark (*) after '36 Months'.
- iii. The opposite party also did not mention the above criteria for warranty on their website (<https://www.luminousindia.com/product/rc-18000>).
- iv. On its website, it mentioned 18 months (Flat) + 18 months (Pro-rata), in case battery develops any technical fault.

8. Pertinently, an opportunity for a hearing was provided to the opposite party on 11.08.2023 wherein Shri Rohit, Assistant Manager Legal, appeared on behalf of the opposite party and submitted that Shri Ashish Pandey, Head Legal and Company Secretary has detailed understanding of the matter and since he is attending an Arbitration meeting in Delhi at the time of hearing scheduled by CCPA, therefore, another date of hearing was requested from the Central Authority.

9. Considering the request made by the opposite party, an opportunity for hearing was granted vide Order dated 11.08.2023 to the opposite party to appear on 16.08.2023.

10. In the hearing held on 16.08.2023, Shri Ashish Pandey, Head Legal and Company Secretary submitted on behalf of the opposite party that:

- i. Luminous have clearly used the (*) asterisk mark after '36* Months warranty' on the packaging box of the battery. Further, the company have mentioned terms and conditions in warranty card which comes in the box.
- ii. Most of the batteries of the Luminous come with the warranty of 3 years, 4 years, and 5 years etc. However, there are limited editions of batteries that company launch for limited duration of free warranty.
- iii. Company has sold approx. 5 lakh batteries and it is the duty of the dealer/seller to provide true conditions of warranty of products to the consumers. It is admitted that the dealer has failed to explicitly mention about the true terms of warranty to the consumer.
- iv. Advertisements by other competitor companies on television represent goods or services with a voice over 'conditions apply'. The same was inferred for Luminous Batteries.
- v. In this era of technology consumers are well aware and smart to purchase a product. They should understand the meaning of (*) asterisk mark.
- vi. The company has discontinued the sale of Luminous Battery RC 18000, the same is not available for sale at present.
- vii. A week's time may be provided to submit additional documents in the matter.

11. The Central Authority, therefore further granted one week to the opposite party and the matter was listed on 23.08.2023 for final hearing.

12. Shri Ashish Pandey and Shri Deepak Chawla appeared on behalf of the opposite party and made following submissions:

- i. The warranty documents are adopted as per industry practices and accordingly a (*) mark was showcased on the packaging box of the impugned product.
- ii. The invoice by our distributor was erroneous and as per the warranty card the battery will be replaced free of cost till the period of 18 months and post 18 months the replacements will be replaced at 20% discount on prevailing maximum retail price.
- iii. The complainant is not coming forward after making the complaint to CCPA and there is a possibility that the competitors have planted the complaint.

- iv. Luminous is the leader of this battery industry and it is difficult to adopt practices for disclosing conditions of warranty which other competitors do not adopt such as Exide, Inva King, Liv Fast etc.

13. During the hearing held on 16.08.2023 & 23.08.2023, the Central Authority found that the several batteries including Luminous Inverter Batteries RC 18000 <https://www.luminousindia.com/product/rc-18000> (copy enclosed) were still available on the opposite party's own website till the time of hearing, claiming a '36* Months Warranty' without mentioning terms and conditions in an easy to access manner. Despite the fact that the representative of opposite party submitted that product in question has been discontinued and is not available for sale at present, it was observed by CCPA during the hearing that the said product was still available for sale.

14. Under the Consumer Protection Act, 2019, misleading advertisement inter-alia means falsely describing a product or services by giving a false guarantee to mislead the consumers as to the nature or quality of such product and conveys an express or implied representation by deliberately concealing important information which, if made by the manufacturer thereof, would constitute an unfair trade practice. Besides, unfair trade practice refers to the practice when for the objective of promoting the sale of any goods, any person, adopts unfair or deceptive practice inter-alia any statement, whether orally or in writing or by visible representation including by means of electronic record which falsely represents that goods are of particular quality or grade and purports to be a promise to replace, maintain or repair an article and if such purported warranty is materially misleading which does not have reasonable prospect that such warranty or promise will be carried out.

15. It may be mentioned that in the present era Doctrine of Caveat Emptor has been evolved to Caveat Venditor and an advertisement is considered to be valid and not misleading when it contains honest representation and does not mislead consumers by exaggerating the practical usefulness or benefit of the product. On the other hand, a disclaimer shall not attempt to hide material information which may make the advertisement deceptive. In the instant matter, the opposite party has deliberately concealed important information by putting an (*) asterisk mark in between 36 Months Warranty which is difficult to notice by a common consumer. Instead it has exaggerated the true conditions of warranty mentioned on the packaging box of the product to deceive the consumers at large.

16. It is therefore evident that Luminous Power Technologies Pvt. Ltd. deceptively mislead the consumers by falsely advertising lucrative deals to cloud the purchasing decision of consumers under the garb of exaggerated warranty displayed on the packaging box while the actual warranty offered as in the warranty card, which comes inside the box and is made available to the consumers only after the product is purchased. Thus, it makes a fit case of misleading advertisement and unfair trade practice.

17. Whereas the Central Authority is empowered u/s 21 of the Consumer Protection Act, 2019 to issue directions to the manufacturer of false or misleading advertisement to discontinue or modify the advertisement and if necessary, it may, by order, impose a penalty which may extend to ten lakh rupees and for every subsequent contravention may extend to fifty lakh rupees. Further, Section 21 (7) of the above Act, 2019 prescribes that

following may be regarded while determining the penalty against false or misleading advertisement:-

- (a) *the population and the area impacted or affected by such offence;*
- (b) *the frequency and duration of such offence;*
- (c) *the vulnerability of the class of persons likely to be adversely affected by such offence;*
- (d) *the gross revenue from the sales effected by virtue of such offence.*

18. In view of the above, the Central Authority hereby issues the following directions:-

- a. To discontinue the present misleading advertisement from all electronic and print media including website of the opposite party.
- b. Luminous Power Technologies Pvt. Ltd. shall pay a penalty of ₹ 1,00,000/- for publishing a misleading claim "36* Months Warranty" by giving a false warranty and deliberately concealing important information, which adversely affects the consumers as a class.
- c. The company shall submit the amount of penalty and a compliance report to CCPA on the above directions within 30 days from the date of this Order.



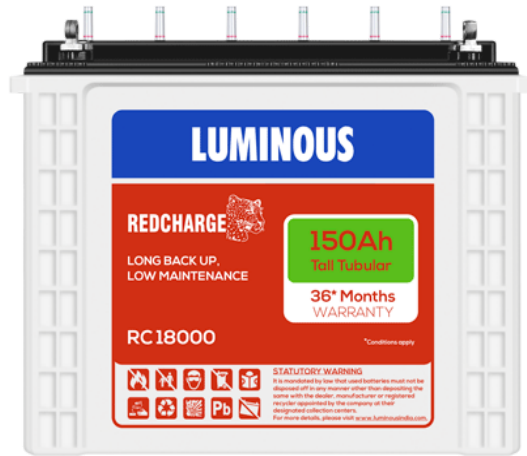
(Nidhi Khare)
Chief Commissioner



(Anupam Mishra)
Commissioner



Search for a product



RC 18000



₹ 18,400.00 (Inclusive of all taxes)

Warranty: 36* Months

Capacity: 150 Ah

Red Charge TT range of batteries offer worry-free electrical performance during most arduous power-cut scenario, ensuring both HRD capability and SFC capability. Batteries made in tall tower type container also ensures lowest maintenance during its service life.




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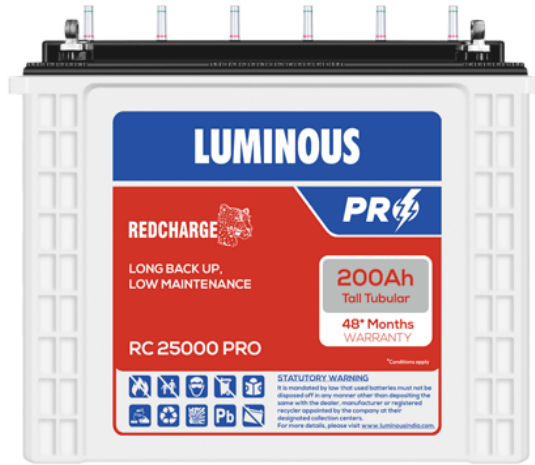
Overall Rating	0 
Backup	0 
Service	0 
Maintenance	0 
Overcharge tolerance	0 



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RC 25000 Pro



₹ 23,400.00 (Inclusive of all taxes)

48* Months Warranty | Capacity: 200 Ah

Red charge TT range of batteries offers worry free electrical performance during most arduous power cut scenario, ensuring both HRD capability & SFC capability. Batteries made in tall tower type container ensures lowest maintenance during its service life.

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Overall Rating

0 ★

Backup

0 ★

Service

0 ★

Maintenance

0 ★

Overcharge tolerance

0 ★



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ILTT 28060



₹ 30,800.00 (Inclusive of all taxes)

60* Months Warranty | Capacity: 250 Ah

Inverlast range of heavy-duty, Tall Tubular batteries are designed to support heavy load of electrical appliances during long & frequent power outages. These batteries contain special grade Lead alloy and are suitable for both HRD & SFC application. These batteries are designed with Orthogonal 3D grid for unmatched electrical performance.

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Overall Rating	0 
Backup	0 
Service	0 
Maintenance	0 
Overcharge tolerance	0 



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ILST 12042



₹ 13,400.00 (Inclusive of all taxes)

Warranty: 42* Months

Capacity: 100 Ah




This range of Inverlast battery are designed to cope with mild -to-heavy loads for a longer duration. They are provide power for a long duration and are suitable for residential, and commercial purposes.

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Overall Rating	0 
Backup	0 
Service	0 
Maintenance	0 
Overcharge tolerance	0 



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PC 18042 TT



₹ 19,100.00 (Inclusive of all taxes)

42* Months Warranty | Capacity: 150 Ah

Power charge batteries are designed for Rural and Semi-urban areas, as they offer Value for money with longer life and less maintenance. Batteries made with Tubular Plate Technology offers superior performance during PSoC application.


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Overall Rating	0 
Backup	0 
Service	0 
Maintenance	0 
Overcharge tolerance	0 



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ECO 18000



₹ 18,800.00 (Inclusive of all taxes)

42* Months Warranty | Capacity: 150 Ah

The High-Performance tall tubular battery with longer Backup time, is made using rugged tubular plates. These batteries require minimum maintenance and can withstand long and frequent power cuts.

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EC 18060



₹ 19,800.00 (Inclusive of all taxes)

60* Months Warranty | Capacity: 150 Ah

An extra-ordinary performer - uniquely designed for High Performance application. It comes with 5 years warranty. Made with special grade of Lead alloy, offering highest resistance to corrosion and remarkable performace at high ambient temperature. Can be used in homes, offices, shops and other areas with high back-up requirement.

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Overall Rating	0 
Maintenance	0 
Backup	0 
Safety	0 
Load	0 
Service	0 
Design	0 

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