

Central Consumer Protection Authority

Room No. 545, Krishi Bhawan, New Delhi - 110001

Case No: CCPA-2/73/2023-CCPA

In the matter of: Case against VLCC Healthcare Limited regarding misleading advertisement.

CORAM:

Smt. Nidhi Khare, Chief Commissioner

Shri. Anupam Mishra, Commissioner

Appearance on behalf of VLCC Healthcare Limited:

Adv. Dhruv Wahi (counsel) and Piyush Agarwal (Legal Manager)

Date: 08.08.2025

ORDER

1. This is a case taken up by the Central Consumer Protection Authority (hereinafter referred to as 'CCPA') after receiving the complaint by Mr Ajay Gupta, r/o 502, Mahavir Apartment, King Kothi Road, Hyderabad, (hereinafter referred as "complainant") against VLCC Healthcare Limited (hereinafter referred as "opposite party") regarding the publication of the misleading advertisement with respect to the weight loss/ fat loss/ slimming etc by a machine called COOL-SCULPTING.

2. The opposite party made the following claims in the alleged misleading advertisement:-

- a) Lose up to 600g and 7 cm in 1 session
- b) Drop 1 Size in 1 session permanently
- c) Drop one size in one hour
- d) VLCC brings you a ground-breaking fat reduction treatment.
- e) With Lipolaser Lose 6cm and 400g in one session.

3. Accordingly, in the exercise of the powers under Sections 18 and 19 of the Consumer Protection Act, 2019 (hereinafter referred to as Act), CCPA conducted a

preliminary inquiry to examine the veracity of the claims in the alleged advertisement made by the opposite party. As per the preliminary inquiry, CCPA found that with the rise of social media and the increasing influence of beauty standards, more people are seeking quick fixes to enhance their appearance to traditional methods like dieting or exercise. The treatments like Cool-Sculpting and Lipolaser have gained immense popularity. The claims *"Lose up to 600g and 7 cm in 1 session"* and *"With Lipolaser Lose 6cm and 400g in one session"* with respect to Lipolaser and claims *"Drop 1 Size in 1 session permanently"*, *"Drop one size in one hour"*, *"VLCC brings you a ground-breaking fat reduction treatment"* with respect to Lipolaser and Cool-Sculpting respectively made by the opposite party were found to be without any substantiation and proper disclosures. Therefore, it was clear that there appeared to exist a prima facie case of misleading advertisement under the Act.

4. Thereafter, the CCPA issued a show cause notice dated 4th September 2023 to the opposite party to furnish its response along with necessary supporting documents within 15 days substantiating the claims made by them.

5. The opposite party furnished its response dated 18th September 2023 along with excerpts from the manual as Annexure- A, the sample of Consent Form informed to customers before services as Annexure-B, a copy of PD form as Annexure-C, and two clients' records as Annexure-D & E, US-FDA approval as Annexure F and made the following submissions:

- a. The complainant is not a consumer of the products and services provided by VLCC and has no locus standi to file the present complaint and the same seems to have been filed with ulterior motives.
- b. "Cool- Sculpting" is only for visible reduction in fat folds, which may occur in 6-8 weeks depending upon the consumer's body and other relevant conditions.
- c. Spectra Medical is the authorized distributor of cool sculpting machines on behalf of the manufacturer, namely, Allergan Aesthetics.
- d. As per the instruction manual provided by the manufacturer along with the machine it can be used for fat burning, slimming, body shaping, effectively promoting tissue metabolism, and blood circulation, strengthening skin elasticity, and anti-aging for face and body to eliminate slow acne scars,

increase the speed of metabolism and helps in speeding the body to excrete waste and excess water, relax muscles, relieve muscle spasm, release muscle pain, tighten muscles of arms, legs, thighs, buttocks, lower back, abdominal muscles, re-shaping body contours, face lifting, wrinkle removal and anti-aging.

- e. The technology can be used to treat vasodilator, fatness of orange skin, tightening the skin tissues, prevent slack, lipolysis, enhance flexibility of the fibroblast, edema, obesity, solid obesity and decomposition of the fatness on the whole or partial body. Further, as per the manual, one can achieve 1 inch loss without changes in lifestyle and loose about 5 inches with major lifestyle changes like diet and exercise. As per the manual, 1-5 inches is an average resultant of the treatment while the best results in a span of 9 sessions can result upto losing 23 inches. The people who make minor lifestyle changes, are on the higher end of the average and those who don't, the lower end.
- f. Advertisement do not aim at weight loss but a treatment/programme that targets body sculpting and contouring of spot areas like tummy, flanks, thighs, chin or back. It is the only US-FDA cleared non-surgical, non-invasive and safe permanent fat reduction treatment/technology available at present.
- g. Further, Lypolaser is a non-evasive, laser based, spot fat reduction and body contouring system which as a consequence of loss of fat from the body results in reduction in body weight. The advertisements referred to by the Complainant specifically mention fat reduction, skin tightening, firming and body contouring from the programmes offered by the Company and weight loss is only a consequence of loss of fat from the body. Additionally, the advertisement do not specifically mention anywhere that the programmes are for weight loss.
- h. The treatment involves advices by highly qualified team of doctors, technicians and other trained professionals who regularly monitor and supervise the progress of each customer on different parameters and accordingly advise them about the manner in which they can maximize the result from the treatment.
- i. Detailed analysis are done by the trained Dietitians/Counselors at the Centre of the opposite party, who obtain the relevant data in respect of Diet and lifestyle from the customers to get the relevant Health Assessment of the Customers.

6. The response of the opposite party was examined. CCPA after considering the submission of the opposite party was satisfied that the matter required detailed investigation.

7. As per sub-section (1) of Section 19 of the Act, "The Central Authority may, after receiving any information or complaint or directions from the Central Government or of its own motion, conduct or cause to be conducted a preliminary inquiry as to whether there exists a prima facie case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a prima facie case, it shall cause investigation to be made by the Director General or by the District Collector". The matter was referred to the DG investigation vide CCPA's order dated 28.11.2023 for a detailed investigation.

8. Further, by the examination of the opposite party's response dated 17.10.2023, CCPA also observed that certain clarification regarding the submissions made by the opposite party is required. Therefore, the opposite party was provided an opportunity to submit additional documents and clarifications by hearing through video conferencing on 28.11.2023.

9. The hearing was held on 28.11.2023 at 3:00 PM through VC. Adv. Dhruv Wadhi appeared on behalf of the opposite party during the hearing and requested the next date of the hearing.

10. Vide interim order dated 30.11.2023, the hearing was rescheduled. The opposite party before the hearing, for the ready reference, submitted a compilation of their previous response for the CCPA vide mail dated 02.02.2024.

11. The rescheduled hearing was held on 07.02.2024. Adv. Dhruv Wahi and Mr. Piyush Agarwal appeared on behalf of the opposite party during the hearing and made the following submissions:

- i. The opposite party provides beauty and skincare wellness through various clinics in India.
- ii. The opposite party raised an objection to the complaint made by the complainant stating it to be very generic in nature.

- iii. The opposite party talks about fat loss and not weight loss. Further stated that the claim "loss 600g" is with respect to the Lipolaser procedure not CoolSculpting.
- iv. The claims made by the opposite party are made on the basis of manual which the manufacturer of the machine has provided.
- v. Referred Annexure A submitted by the opposite party as to the efficacy of the CoolSculpting Procedure.
- vi. Pursuant to the receipt of the Notice dated 04.09.2023 the opposite party has removed the alleged misleading advertisement from the public domain.

12. Further, during the hearing the CCPA asked the opposite party to submit the scientific studies or report on the basis of which they are making claims. The opposite referred to Annexure 'F' i.e. US FDA approval certificate submitted by them with their response dated 17.10.2023.

13. In view of the hearing held, CCPA vide the interim order dated 18.03.2024 issued the following directions to the opposite party:

- i. The opposite party is to submit a written declaration with respect to the removal of the alleged misleading advertisement, in support of the oral submission made before CCPA, as stated in sub-para vi of para 8 above.
- ii. The opposite party is to submit scientific studies being conducted on the Indian demographic with respect to CoolSculpting procedure in support of the claims made by them.

14. The opposite party submitted their response dated 02.04.2024 in compliance to the directions passed vide interim order dated 18.03.2024. The opposite made the following written submissions:

- i. The opposite party submitted a signed declaration stating that:
"That pursuant to receipt of the notice dated 04.09.2023, the Company has taken cognizance of the issue and has removed the alleged misleading advertisements in respect of which the present proceedings have been initiated against the Company from the public domain by removing the same from all the social media platforms such as Google, Facebook, Instagram as well as from its website where it was advertised by the Company and it was practically

possible within Company's means for the Company to remove the same. The said advertisements are no longer in use."

- ii. For submission of scientific studies being conducted on the Indian Demographic with respect to CoolSculpting procedure in support of the claims is concerned, opposite party submitted that Allergan Healthcare India Limited, Maharashtra had obtained import license dated 29.11.2022 to import and market Zeltiq CoolSculpting device as per the Medical Device Regulation, 2017 applicable to devices imported and marketed for sale in India issued by Mr. Venugopal G. Somani, Drugs Controller General (India), Central Drugs Standard Control Organization. As per the license, Allergan Healthcare India Limited being the authorized agent is responsible for the business activities for the overseas manufacturers M/s. Zeltiq Aesthetics Inc., USA in India. And also submitted a copy of the Import License issued for importing the Zeltiq CoolSculpting device.

15. The report of Director General Investigation on the matter was received by CCPA vide mail dated 03.01.2025. The investigation report submitted that :

- i. The Cool-Sculpting device being used in fat-freezing mainly aims to get rid of stubborn fat in certain parts of the human body. The method is called cryolipolysis. The Cool-Sculpting System is a skin cooling or heating device. The device is indicated for cold-assisted lipolysis (breakdown of fat) of the submental area, thigh, abdomen, and flank, in individuals with a Body Mass Index (BMI) of 30 or less. The device is intended to affect the appearance of visible fat bulges in the submental area, thigh, abdomen and flank. However, M/s VLCC Health Care Limited has promoted Cool-Sculpting and Lipolaser treatments for weight loss by claiming a reduction of 600g and 400g, thereby misleading consumers.
- ii. The company has not provided any statutory approvals for the Lipolaser device, such as the US FDA and Central Drugs Standard Control Organisation (CDSCO) certificates, hence, is found to be concealing this crucial information and violating the Medical Device Regulations, 2017.
- iii. While the company has provided qualified professionals with certifications, most of the practitioners performing treatments like CoolSculpting and Lipolaser are physiotherapists, who may not have the specialized expertise

required for these advanced aesthetic procedures. These treatments involve complex technologies and safety protocols that are outside the scope of physiotherapy. To ensure optimal results and patient safety, CoolSculpting and Lipolaser should have been performed by professionals with specific training in aesthetic medicine, such as certified cosmetic dermatologists or licensed practitioners in fat reduction technologies.

- iv. The company provided details of over 30 clients in the Delhi NCR region, including before-and-after treatment photos. Based on the analysis of details provided, it is concluded that 67.64% of clients who have undergone the treatment did not achieve the result as claimed by the advertisement.
 - v. VLCC Health Care Limited has neither submitted any scientific tests or studies conducted on the Indian demographic to support its claims, nor any validated test results from a recognized third party, in support of the oral submission made before CCPA, thereby failing to comply with the interim order of CCPA dated 18th March, 2024.
 - vi. In view of the above, it is proposed that the case may be referred to the regulator i.e. CDSCO for taking further necessary actions.
 - vii. Therefore, M/s VLCC Health Care Limited has indulged in a potential violation of Section 2(28) of the Consumer Protection Act 2019
- 16.** The report from the Director General (Investigation) was shared with the opposite party vide letter dated 27th March 2025 for their comments, if any.
- 17.** The opposite party vide letter dated 15.04.2025 submitted their following comments:
- i. The complaint filed by Ajay Gupta pertained to Coolsculpting machine being advertised for weight loss, therefore the scope of the present enquiry is limited to whether Coolsculpting machine was being advertised for weight loss and no further. The finding in para (a.) that "However, M/S. VLCC Health Care Ltd. has promoted cool-sculpting and Lipolaser treatments for weight loss by claiming a reduction of 600g and 400g, thereby misleading consumers." is factually incorrect.
 - ii. In the advertisements pertaining to cool-sculpting which was alleged to be misleading, the VLCC has nowhere advertised the same for reduction in

weight, rather it advertised regarding Drop 1 size in 1 session. The loosing in grams is mentioned in two advertisements pertaining to V Fit and Lipolaser and not the three advertisement pertaining to Coolsculpting.

- iii. The Company has spent substantial amount of around 45% on the Machine Rent and expenses upon their maintenance, Salary of the Doctors and technicians who operate the same including that of the support staff and other expenses on running and maintaining Centers which includes Centre rent and its maintenance, Consumables used in providing coolsclupting and lipolaser, marketing etc. for generating the revenue as mentioned above. Accordingly it is submitted that no considerable amount of turnover is generated. Further it is denied that the turnover is generated by misleading people.
- iv. The Lipolaser machines are obtained locally from the Venders in India, who procured the same from China etc. The lipolaser procedure is non evasive procedure, the machine comes along with user manual and the services are rendered in terms of the same. The User Manual of Lipolaser have already been shared. Lipolaser is a Patented technology and its studies are clinically approved.
- v. It may please be noted that VLCC Health Care has not concealed any information and has provided all the information available with it. VLCC is only one of the Consumers of the manufacturer of Lipolaser like many others using the devise in India and abroad. Therefore, the information with regard to approvals obtained are solely in the domain of the manufacturer which is not a party to the present investigation and has not shared the same with VLCC. As such such information is not available with VLCC. It is most respectfully submitted that the same may be called for by the authority from the manufacturer of Lipolaser machine by issuing necessary directions to them.
- vi. The conclusions arrived at by the Learned investigator is incorrect in as much as, the physiotherapists are licensed mentioned by the VLCC are well trained and qualified and are having expertise in handling aesthetic medicine/machinery. The copies of certificates issued by the Allergan Aesthetics to the Physiotherapists as appointed by VLCC are submitted by opposite party.
- vii. The inference drawn that approx. 67.64% did not achieve the result is both misconceived and incorrect. As per the client's s data shared by VLCC, it

mentions the Number of Sessions taken, Initial weight, Final Weight, KG Loss, etc. Therefore it can be seen that weight loss after one session cannot be averaged out as the weight loss may vary due to numerous reasons i.e. for not taking prescribed diet, exercise etc. As per the findings, the average is calculated on the basis of initial recording of weight and final recording of weight (post many sessions). It is further submitted that weight of the customer may vary after each of the session due to various ancillary reasons i.e. for not taking prescribed diet, exercise etc.

- viii. As communicated earlier, the scientific studies on the Indian demographic cannot be conducted by the VLCC alone. The scientific studies are conducted by the manufacturer of the machines only. The VLCC has already shared the available data for other regions.
- ix. The VLCC voluntarily decided to discontinue the advertisements for which notice was received from the authority, as a matter of Company policy. Under the circumstances, directions may be issued to the manufacturer of the coolsculpting devises being sold by them in India to conduct a scientific study on the Indian Demographic and their results provided to the authority. It is reiterated that VLCC is only a Consumer of the company manufacturing Coolsculpting and Lipolaser machines and is merely providing services to public using the said machines manufactured by them to its clients.
- x. The opposite party prayed that, VLCC Healthcare Limited has not indulged in any violation much less potential violation of Section 2(28) of the Consumer Protection Act, 2019 as stated in the report and therefore, it is most humbly prayed that the present complaint being false, based on wrong assumptions and devoid of any merits is liable to be Dismissed and the matter closed, in the interest of justice.

18. As per section 21(8) of the Act, the opposite party was provided an opportunity for a hearing on 24th April 2025. Adv. Dhruv Wahi and Mr. Piyush Agarwal appeared on behalf of the opposite party during the hearing. During the hearing the opposite party submitted that they have concluded their submissions in their response dated 15.04.2025, which was submitted before the authority. Further, opposite party drew the kind attention of the CCPA to the advertisement itself and stated that the claims 600g and 400 g are made with respect to the V-Fit lipolaser machine and not with

respect to the Cool-Sculpting machine. The opposite party further submitted that through their alleged advertisement they do not advertise that a fat person can reduce.

19. During the hearing, CCPA pointed out the allegation that the Cool-Sculpting does not provide any results as raised by the complainant. To which the opposite party submitted that they have submitted the results of two of their clients, namely, Prabha Selvan and K.Fauzia, showing the results of Cool-Sculpting.

20. During the hearing, the opposite party submitted that the claims "Lose up to 600g and 7 cm in 1 session" relate to the V-Fit Lipolaser machine, and it is the average taken of 8-9 sessions of one patient, it is not achieved in one session. The program provided to the consumer by the opposite party is combined with dietary restrictions and also exercises.

21. Further, during the hearing, CCPA pointed out that the forms of their clients Fauzia & Prabha submitted by the opposite party (as annexure D & E of response dated 18.09.2023) was in support of Cool-Sculpting. However, the BMI as recorded by the opposite party before enrolling the consumer (namely Fauzia) in the program is 38.2. Whereas in the Indication for Use of Cool-Sculpting as provided in the US-FDA approval, the machine is effective on people with a BMI of 30 or less. To this, the opposite party submitted that Fauzia has taken the treatment for Lipolaser from the opposite party, which can be seen by the form submitted and does not relate to Cool-Sculpting/lipolaser. Interestingly, to escape legal liability, the consumer is asked to sign on a consent form which includes declaration clauses clauses that *"such results of the programme cannot be guaranteed and the lack of results will not be construed as deficiency of service "**"I understand that no guarantee/assurance can be given to me regarding the result and outcome of the programme "*The declaration which the consumer is made to sign, negate the proclamations in the advertisements of VLCC. These clauses should have been added as a disclaimer in the advertisement. The clauses in the consent form raise serious doubts about the efficacy of the treatment as claimed in the advertisement.

22. Further, during the hearing, the CCPA raised the query regarding the documentary evidence of the claims made by the opposite party with respect to both the machines, i.e. Cool-sculpting and Lipolaser, as used by the opposite party. To which the opposite party submitted that they have, along with their response dated

18.09.2023, submitted the manual pertaining to Cool-Sculpting as well as the US-FDA certificate issued with respect to the Cool-Sculpting.

23. The opposite party, further during the hearing, submitted that Annexure- A of their response dated 18.09.2023 is the user manual provided to them by the manufacturer of the Cool-sculpting machine and as per that manual, consumer can reduce 1-5 inches average and maximum loss is 23 inches in 9 sessions with minor lifestyle changes.

24. It may be mentioned that Section- 2(28) of the Act, defines "misleading advertisement" in relation to any product or service to mean an advertisement, which—

- a) falsely describes such product or service; or
- b) Gives a false guarantee to, or is likely to mislead the consumers as to the nature, substance, quantity or quality of such product or service; or
- c) Conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an unfair trade practice; or
- d) Deliberately conceals important information;

25. From a bare reading of the above provisions of the Act, it is clear that any advertisement should:

- i. Contain Truthful & honest representation of facts.
- ii. Have assertions, and guarantees only when backed by underlying credible and authentic material, study etc.
- iii. Not indulge in unfair Trade practice as defined in Section 2(47) of the Act. It should be free from false representation that the goods/services are of particular standard, quality [(section 2(47)(a))] and should not make false or misleading representation concerning the need for or usefulness of any goods or services (section 2(47)(f) of Consumer Protection Act with respect to unfair trade practice.
- iv. Disclose important information in such a manner that they are clear, prominent and extremely hard to miss for viewers/consumers so as to not conceal important information.

26. With respect to the claims *"Lose up to 600g and 7 cm in 1 session"* and *"With Lipolaser Lose 6cm and 400g in one session"* made by the opposite party in the alleged advertisement with respect to the V-Fit Lipolaser machine. The opposite party in their response dated 18.09.2023 stated that *"Lipolaser is a non- invasive, laser based, spot fat reduction and body contouring system which as a consequence of loss of fat from the body results in reduction in body weight."* CCPA observes that, in any of their responses, the opposite party has not disclosed to the CCPA the machine that they use for the lipolaser, and the manufacturer of the said machine. Neither the opposite party has submitted any approval certificates or scientific studies relating to the results claimed by them in the alleged advertisement with respect to Lipolaser. The lack of regulatory approvals for the Lipolaser machine suggests a failure to meet safety standards, putting consumers at risk.

27. The Annexure-A of the opposite party's response dated 18.09.2023 is a user manual provided by the unknown manufacturer to the opposite party, and it is with respect to the Lipolaser and not Cool-Sculpting. Taking the manual submitted on record, the directions for application as provided in the manual do not provide for any weight loss that can be achieved by Lipolaser. Further, as per the user manual, the Lipolaser can provide a loss of 1-5 inches on average in 9 sessions. Therefore, by claiming reductions of up to 600g and 400g per session, the opposite party mislead the consumers in the pursuit of profits. The opposite party's contention that any scientific study has to be conducted by the manufacturer and not VLCC is erroneous. The advertisements were carried out by VLCC and not the manufacturer. Therefore onus is on VLCC to establish that the proclamations in the advertisement had scientific basis.

28. Further, the opposite party in its response dated 15.04.2025 submitted that *"The Lipolaser machines are obtained locally from the Venders in India, who procured the same from China etc. The lipolaser procedure is non evasive procedure, the machine comes along with user manual and the services are rendered in terms of the same. The User Manual of Lipolaser have already been shared. Lipolaser is a Patented technology, and its studies are clinically approved."* Going by the above-stated submission made by the opposite party, CCPA observes that they have obtained the Lipolaser machine V-Fit from a locally sourced vendor whose information has not been disclosed. Further, they admit that Annexure-A of the response dated

18.09.2023 is the user manual of Lipolaser and not Cool-Sculpting. Further, the opposite party has not submitted any patent certificate or any clinical studies in support of the Lipolaser. It indicates that the opposite party has concealed important information relating to the efficacy of the machine.

29. During the hearing held on 24th April 2025, the opposite party was given an opportunity to submit any scientific evidence or any additional submission with respect to claims "Lose up to 600g and 7 cm in 1 session" and "With Lipolaser Lose 6cm and 400g in one session". The opposite party did not submit any additional documents or evidence to support its claims.

30. With respect to the claims "*Drop 1 Size in 1 session permanently*", "*Drop one size in one hour*", "*VLCC brings you a ground-breaking fat reduction treatment*" made by the opposite party in the alleged advertisement for Cool-Sculpting. The opposite party has only submitted the US-FDA approval letter and CDSCO license to import medical devices in support of the claims made by them. CCPA observes that the Cool-Sculpting device being used in fat-freezing mainly aims to get rid of stubborn fat in certain parts of the human body. The method is called cryolipolysis. The Cool-Sculpting System is a skin cooling or heating device. The device is indicated for cold-assisted lipolysis (breakdown of fat) of the submental area, thigh, abdomen, and flank, in individuals with a Body Mass Index (BMI) of 30 or less.

31. The Cool-Sculpting machine is manufactured overseas in USA by M/s. Zeltiq Aesthetics Inc. Allergan Healthcare India Limited, has obtained an import license dated 29.11.2022 from the Central Drugs Standard Control Organisation to import and market the Zeltiq CoolSculpting device in India as per the Medical Device Regulation, 2017.

32. The Cool-Sculpting machine manufactured by Zeltiq Aesthetics is approved by the US FDA for the reduction of fat bulges in the upper arm, bra fat, back fat, banana roll, submental area, thigh, abdomen and flank in individuals with a Body Mass Index (BMI) of 30 or less. CCPA observed that the US-FDA approval, as submitted by the opposite party, the clinical trial submitted by Zeltiq Aesthetics, claims that the machine exhibits more than or equal to 20 mm² area reduction in 12 weeks in the submental area and neck.

33. With respect to the clinical trial submitted by Zeltiq Aesthetics before the US-FDA, CCPA observes that the sample size of the trial consists of 57 people having ethnicity of Caucasian, Hispanic, and African American, and it does not include anyone from Indian or Asians demographics. CCPA, observes that in the absence of any test being conducted on the Indian demographic by Zeltiq Aesthetics and no specific declaration by US-FDA with respect to the usage of the CoolSculpting procedure in India, the opposite party has made tall claims which are out of the scope of 'Indication for Use' given by the US-FDA. But the demographic aspect was not disclosed to the consumer regarding the trial population which is an important information within the scope of section 2(28)(iv) of Consumer Protection Act 2019.

34. As per the Director General Investigation report, the opposite party provided details on the effectiveness of the treatment for over 30 clients in the Delhi NCR region, along with before-and-after photographs of their treatments. The parameters considered for analysis included the number of sessions, initial weight in kg, final weight in kg, and weight loss. It can be inferred that, according to the advertisement's claim of losing up to 600g in one session, 23 out of 34 clients (approx. 67.64%) did not achieve this result. The allure of looking better with minimal efforts blinds many to the potential risks and disappointment they might face. The opposite party advertisement has not informed the potential user on this aspect, upfront.

35. The CCPA has carefully considered the written submissions as well as submissions made by the opposite party during the hearings and the investigation report submitted by the Director General (Investigation) and concludes that:-

- i. The opposite party by the show cause notice dated 4th September 2023 was furnished an opportunity to substantiate its claims made in the alleged advertisements with respect to Cool-Sculpting and Lipolaser.
- ii. The opposite party has not provided any statutory approvals for the Lipolaser device, such as Us-FDA and Central Drugs Standard Control Organisation certificates, therefore has concealed this crucial information.
- iii. The opposite party has made tall and unsubstantiated claims, and has promoted Lipolaser treatments for weight loss by claiming a reduction of 600g and 400g, thereby misleading the consumers.

- iv. The opposite party in the absence of any test being conducted on the Indian demographic and no specific declaration by US-FDA with respect to the usage of the CoolSculpting procedure in India, has made tall claims like "Drop 1 Size in 1 session permanently", "Drop one size in one hour", "VLCC brings you a ground-breaking fat reduction treatment" without any proper disclosures and mislead the consumers into believing the results as claimed.
- v. The opposite party has violated the provisions related to misleading advertisement of the Consumer Protection Act 2019: Section 2(28)(i)-
 - a. Falsely describing the product
 - b. Section 2(28)(ii)- false guarantee
 - c. Section 2(28)(iii)- unfair trade practice
 - d. Section 2(28) (iv) -Deliberately concealing important information

36. As per the Consumer Rights enshrined under Section 2(9)(ii) of the Act states that the consumer has-

"the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices".

The right of the consumers have also been violated either by misleading advertisement and withholding important information regarding the product and services of VLCC.

37. The CCPA is empowered under Section- 21 of the Consumer Protection Act, 2019 to issue directions to the advertiser 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 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) Gross revenue from sales effected by virtue of such offence.

38. The opposite party was incorporated in 1996 and is among the first multi-outlet corporate operations in the Skincare, Beauty & Wellness Industry in India. As per the opposite party's website, the opposite party has 185 wellness centers and beauty clinics in India. The opposite party has a significant social media presence in India, with notable follower counts on platforms like Twitter having 8.6K followers, Facebook with 1 Million followers, YouTube with 25.6K subscribers, and Instagram having 126K followers.

39. In view of the above, and in light of the protection of consumer rights, the CCPA issues the following directions under Section 20 of Consumer Protection Act 2019-

A. With respect to the US-FDA approved CoolSculpting procedure/ machine holding License No.: IMP/MD/2022/000601 for the import in India issued by the Central Drugs Standard Control Organization (CDSCO):-

The company using such CoolSculpting machine will disclose the following prominently in its advertisement itself or separately in its disclaimer-

- i. Particular areas of the body where it targets the fat- reduction;
- ii. Works only in individuals with Body Mass Index (BMI) of 30 or less;
- iii. Every inclusion and exclusion as stated in the US –FDA approval of the CoolSculpting fat-reducing procedure/ machine.
- iv. Demographies where the machine has been tested

B. The opposite party using such CoolSculpting machine will mention "*The CoolSculpting Procedure is used for treatment of the focal fat deposits and not weight loss*" in its advertisement as well as on the consent form in such a manner which is easily accessible and readable to the consumers.

C. The opposite party using such CoolSculpting machine will make claims in accordance to the approval granted to it with respect to its efficacy and usage.

D. The opposite party using such CoolSculpting machine shall ensure that information regarding the absence of testing conducted on the Indian demographic and the lack of specific endorsement by the US Food and Drug Administration (FDA) regarding the utilization of the CoolSculpting procedure in India is provided to the consumer prior to availing the service of CoolSculpting.

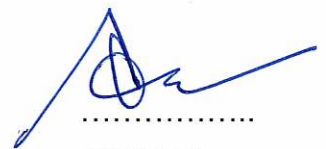
E. The opposite party shall discontinue the practice of making the consumers agree to clauses which are unfair and prejudicial to consumer interest [as provided in

section 20(c) of Act] with an unfair motive to escape legal liability and accountability for the claims advertised.

F. The opposite party had a turnover of Rs 39.88Cr in Fy 2022-23 ;Rs 36.72 crore in FY 2023-24 during the existence of the misleading advertisement before potential consumers. Moreover the misleading advertisement was discontinued after the CCPA had issued the notice (as per submission dated 02.04.2024). Had CCPA not taken suo moto action in the matter and not issued the notice the opposite party would have continued with the misleading advertisement and mislead the unsuspecting consumers. In light of the violations, discussed in foregoing paras, CCPA therefore finds it necessary to impose a penalty on the opposite party. Considering the facts and circumstances of the case and having regard to the factors enumerated in section 21(7) of Act to this case, the CCPA finds it necessary that opposite party shall pay a penalty of ₹ 3,00,000 for publishing false and misleading advertisement claims that affected the consumers as a class.

a) The opposite party shall submit the amount of penalty and a compliance report to CCPA on the above directions within 15 days from the date of this Order.

The above order and directions are passed in exercise of the powers conferred upon CCPA under section 10, 20, 21 of the Consumer Protection Act 2019.



Nidhi Khare
Chief Commissioner



Anupam Mishra
Commissioner

