



IN THE COURT OF ADJUDICATING OFFICER
/ADDITIONAL DISTRICT MAGISTRATE
(SOUTH-EAST)

Old Gargi Collage Building Lajpat Nagar -IV New Delhi 24
(BEHIND LSR COLLEGE)



No. 14/ADM (SE)/FS Cases/2014/ 1118 -1123

Dated: 27/11/17

As per order: - ADM (South-East)/Adjudicating Officer

IN THE MATTER OF: Food Safety Officer Applicant/complainant
V/s
Sh. Rajinder Waldia & Sh Madhav Sarda Respondents

ORDER

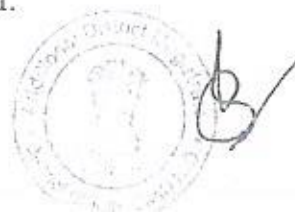
1. An application came up before this court under rule 3.1.1(3) of The Food Safety and Standards Rules, 2011 of The Food Safety and Standards Act, 2006 on 08.08.2014 by Department of Food Safety, Govt. of NCT of Delhi represented by one Sh. Ranjeet Singh, Food Safety Officer, as directed by Sh. Shyam Lal, Designated officer, in exercise of power vested in him vide Section 36(3)(e) of the Food Safety and Standards Act, 2006 for adjudication of the offence/contravention committed by

- i. Sh. Rajinder Waldia S/o Late Sh. Sher Singh Waldia, Manager of daily activities of the accused company;
- ii. Sh. Madhav Sarda S/o Sh. Nand Lal Sarda, One of the Directors of the accused company;
- iii. M/s Golden Tips Tea Co. (Pvt.) Ltd, company duly incorporated under the Companies Act, 1956/2013, having its office at D-64, Okhla Industrial Area, Phase 1, New Delhi- 110020



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2. Sh. Ranjit Singh, Food Safety Officer, on behalf of the applicant and Sh. Madhav Sarda, on behalf of the respondents appeared on proceedings dates of the case.
3. The applicant in the aforesaid application contended the following:
 - i. That the applicant is represented by Sh. Ranjeet Singh, Food Safety Officer, as directed by Sh. Shyam Lal, Designated officer, in exercise of power vested in him vide section 36(3)(e) of the Food Safety and Standards Act, 2006.
 - ii. That on 02.06.2014 around 4.30 pm, Food Safety Officer Sh. Ranjit Singh, as directed by the Designated Officer, Sh. Shyam Lal purchased a sample of "mint green tea" for food analysis from respondent no. 1, Sh. Rajender Waldia, FBO-cum-manager of the respondent no. 3, where the said food was found being stored and for sale for human consumption. That one Sh. Naubat Singh, FA was joined as a witness as no one came forward even after sincere efforts were made to call for a witness.
 - iii. That the sample consisted of 12X100gm sealed packs of mint green tea were taken in original sealed condition from the same lot and were divided into four equal parts then and there by separately packing, fastening and sealing was done of all the counterparts according to the Food Safety Act/Rules and Regulations and necessary formalities completed.



- iv. That the one counterpart of the sample bearing designated officer's code in a sealed packet with a copy of the memo in form VI along with another copy of the memo in form VI in a separate sealed cover were sent separately to Food Analyst, Dehi and rest counterparts were kept intact condition along with the copy of the memo in form VI with the designated officer.
 - v. That the report of Food Analyst bearing no. FSS/493/2012 dated 17.06.2014 held that the sample was not free from extraneous matter and also violated Regulation No. 2.2.2.4, 2.2.2.8 and 2.2.2.9 of the Food Safety & Standard (Packaging & labeling) Regulation, 2011 and thus are substandard and misbranded.
 - vi. The respondent no. 1 being the Food Business Operator-cum-Manager of the respondent who looks for day to day activities of the respondent company and respondent no. 2 being one of the three directors of the respondent company and is responsible for activities of the company.
4. The Designated Officer, vide notice no. F.6(63)/DO-S-E/2014 dated 23.06.2014 sent a notice to the FBO of the Respondent No. 3 i.e. to Respondent No. 1, giving him the opportunity to file an appeal against the aforesaid report u/s 46(4) of the act but the respondent did not preferred it.
5. A notice vide notice No. 14/ADM/F.S. Cases/2014/ was sent to all the respondents to appear on 12.09.2014 before this court. Respondent no. 1 on behalf of all the respondents, as authorized by the other two respondents, appeared on such date and contended that the proer



procedure of collecting sample was not followed and was directed to furnish written submission on this matter.

6. On 15.05.2015 a fresh notice was issued to the respondents to appear on 26.06.2015. On 26.06.2015 the respondents were still not present and thus warrant order was issued against the respondents.
7. The respondents before the next hearing submitted that the respondent no. 2 was out of town for business work whereas, due to some personal issue, the respondent no. 1 was not attending the office of respondent no. 3 for last three months. The respondent no. 2 promised on affidavit to appear on the next hearing. The respondent no. 2 on 31.07.2015 vide his written request dated 31.07.2017 requested the court to remove his name as he was just the employee in the company and have now resigned from the company. Further that on 1.01.2016, the respondent without the prior permission from the court sent one Sh. Jeeshan Ahmed on their behalf and court ordered for personal appearance.
8. The respondent no. 1 again submitted his request letter dated 18.01.2017 reiterating the similar words of removing his name from the respondents.
9. The respondents filed their reply on 08.08.2016 and the same was placed on record. The respondent in their reply contended as follows:
 - i. That the samples collected by the Food Analyst was from the production line which is not a showroom/retail sales counter/ store and no product is being sold there that is just a packaging and dispatch unit and the final inspection was done before the finished



product is actually packed as the vegetarian mark, lot number, MRP and manufacturing date is being put on the packed product by way of stamping.

- ii. That the company observes high grade of quality and strict vigil and care is being taken to manufacture such product and the alleged inorganic substance cannot be part of such product.
 - iii. That the respondent prayed for a fresh examination of the sample by a different testing agency and discarding of the aforementioned food analysis report.
10. Fresh notices vide notice No. 14/ADM(SE)/FS Cases/2017/2586-88 dated 07.12.2016 were issued to the updated respondents i.e. Sh. Madhav Sarda, Director, M/s Golden Tips Tea Co (Pvt.) Ltd. and M/s Golden Tips Tea Co (Pvt.) Ltd.
11. This court after hearing to the arguments of both the parties held that the respondents through their reply and arguments were able to clarify that the sample was not ready for consumption and same was under process thus in view of the facts and circumstances involved in aforementioned cases and rival contentions of the parties, following common proposition arises:
- i. That the respondent as mentioned above have violated the provisions of Section 26(2)(ii) read with rules (3)(1)(i), (zx) & (zf)(c)(i) of Food Safety and Standard Act, 2006 and not liable for violation of regulation no. 2.2.2.4, 2.2.2.8 and 2.2.2.9 of the Food Safety and




Standard (Packaging and Labeling) Regulation, 2011 which is punished under Section 51, Section 52 of Food Safety and Standard Act, 2006.

Thus, the minimum penalty imposed on respondent as he himself pleaded guilty and being first time offender, total penalty of Rs.21000/- is to be levied on the respondent company (through the directors) for violating the abovementioned offences.

12. The Respondents shall deposit the said penalty in this court in the form of Crossed Demand Draft on National Bank in Favour of "Adjudicating Officer, District South-East" payable at Delhi within two weeks of receipt of this order.
13. In terms of provision of Rule 3.1.2 (5) of food Safety and standards rule, 2011 one copy of this order is served to respondents and food safety officer.
14. Pronounced in open court




(Rajeev Singh)

Adjudicating Officer/ADM (South-East)

Copy to:-

1. Food Safety Officer (Sh. Ranjeet Singh), Department of Food Safety, Govt. of NCT of Delhi, 8th Floor, Mayur Bhawan, Connaught Place, New Delhi - 01
.....Applicant / Complaint
2. Sh. Madhav Sarda, R/o B-240, Block -B, Greater Kailash, New Delhi - 110020
3. Sh. Rajinder Waldia R/o 1441, First Floor, DDA Flats, Madangir, New Delhi -110062.
4. M/s Golden Tips Tea Co. (Pvt.) Ltd. D-64, Okhla Indl. Area, Phase -I, New Delhi -110020
5. Sh. Madhav Sarda & Rajinder Waldia, Administrative Manager, M/s Golden Tips Pvt. Ltd. D-64, Okhla Indl. Area, Phase -I, New Delhi - 110020.
6. DIO(South-East) for upload on the web site.



(Handwritten signature)
27/11/17
(Rajeev Singh)

Adjudicating Officer/ADM (South-East)