

IN THE COURT OF SH. AJAY KUMAR, ADJUDICATING OFFICER/
ADDITIONAL DISTRICT MAGISTRATE
(SOUTH-EAST)
GOVT. OF NCT OF DELHI, OLD GARGI COLLEGE BUILDING LAJPAT
NAGAR-IV NEW DELHI-110024



9/F.S.Cases/ADM/SE/2014/ 944-948

Dated: 9/9/14

THE MATTER OF :

1. FOOD SAFETY OFFICER
DEPARTMENT OF FOOD SAFETY,
Govt. of NCT of Delhi,
A-20, Lawrence Road Indl. Area,
Delhi-110035.

Complainant

V/s

1 Sh. Ram Ahuja M/s Shyam Store 274, INA Market, New Delhi-110023
R/o 20/586, DDA Flats, Madan Gir, New Delhi-110062

..... Food Business Operator-Cum

Proprietor

2 Sh Om Prakash Goenka M/s Durga Traders, 188 Tilak bazaar Delhi-110006
R/o 188, Tilak Bazar Delhi-110006

...Partner of Accd. No.-4.

3 Sh. Abhimanyu Goenka M/s Durga Traders, 188, Tilak Bazar, Delhi-110006
R/o 188, Tilak Bazar, Delhi-110006

...Partner of Accd. No.-4.

4 M/s Durga Traders,
188, Tilak Bazar, Delhi-110006

.....Packers/ Marketier firm

ORDER

(Under Rule 3.1.1.(3) of Food Safety & Standards Rules, 2011)

An application under Rules 3.1.1. (3) of FSS Rules, 2011 was filed in this court by the Food Safety Officer, Sh. Ranjeet Singh for adjudication of the offence for violation of Section 3 (1) (zf) (A) (i) of the FSS Act, 2006 and also violated Regulation No.2.2.2.8 & 2.2.2.9 and 2.2.2.(6) & 2.3.1 (5) of the Food Safety & Standards (Packaging & Labeling) Regulation 2011, which is punishable under Section 52 of the Food Safety and Standard Act, 2006.



plication, it was alleged that on 10/09/2013 at about 4.00 PM the Food Safety (Ranjeet Singh) purchased a sample of "Aam Papad" an article of food for analysis. Sh. Ram Ahuja, Food Business Operator-Cum-proprietor of M/s Shyam Store , 274, INA New Delhi-110023 where Sh Ram Ahuja FBO-Cum-Proprietor was found storing the food article for sale for human consumption at the time of taking sample. The sample was as per the direction of the Designated Officer Sh. Shyam Lal . The sample of Aam Papad lying in sealed plastic Packets of identical declaration. Before taking sample efforts were made to get the public witness to join the sample proceedings by him but none came forward. On his request Sh. Siya Ram FA joined as a witness to the sample proceedings.

One counterpart of the sample bearing Designated Officer Code No. 10/DO-07/3910 in intact condition in a sealed packet along with a copy of memo in form VI and another copy of memo in Form VI in a sealed cover were sent separately to the Food Analyst on 11/09/2013. The Food Business Operator did not request to sent the fourth counterpart of the sample for analysis from an NABL Accredited Laboratory under Rule 2.4.5 of Food Safety and Standard Rule, 2011. The Food Analyst analysed the sample and found the sample misbranded. As per the Analyst Report, "The sample is misbranded because there is violation of Regulation No.2.2.2.8 & 2.2.2.9 of The Food Safety & Standards (Packaging & Labeling) Regulation, 2011. The sample also gives false declaration regarding composition of food because it does not contain silver leaves although it is one of the declared ingredients.."

During the hearing, Sh. Ranjeet Singh, FSO present for petitioner. Sh. Ram Ahuja M/s Shyam Store 274, INA Market, New Delhi-110023, & Sh Om Prakash Goenka & Sh. Abhimanyu Goenka , M/s Durga Traders , 188 Tilak bazaar Delhi-110006 present for respondents. The respondents admitted that the lifted sample was Misbranded and sample also gives false declaration regarding composition of food because it does not contain silver leaves although it is one of the declared ingredients and he pleaded guilty on misbranding of sample also.

From the above said facts and circumstances and documents placed on records, it is proved that respondents – Sh. Ram Ahuja M/s Shyam Store 274, INA Market, New Delhi-110023, & Sh Om Prakash Goenka & Sh. Abhimanyu Goenka , M/s Durga Traders , 188 Tilak bazaar Delhi-110006, has committed offence. Respondents accepted the charges levied on him by the Applicant/Food Safety Officer. As such the Respondents are liable to penalty of fine under Section 52 of the Food Safety & Standard Act, 2006.

While adjudging the quantum of penalty due regard u/s 49 of Food Safety and Standard Act, 2006 of the following have been taken:

1. The amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention,



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amount of the loss caused or likely to cause to any person as a result of the contravention,

the repetitive nature of the contravention,

Whether the contravention is without his knowledge.

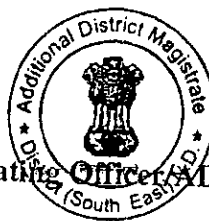
Also while deciding the matter Analyst Report is perused which reveals that "The sample is misbranded because there is violation of Regulation No.2.2.2.8 & 2.2.2.9 of The Food Safety & Standards (Packaging & Labeling) Regulation, 2011. The sample also gives false declaration regarding composition of food because it does not contain silver leaves although it is one of the declared ingredients.." The respondents submitted that the Aam Papad was misbranded. The petitioner did not object this submission of the respondents. The respondents submitted that it is their first mistake and they promise to not repeat such act. In this case, the amount of gain to the seller and amount of loss to the customer can't be quantified, however, they have committed offence for sale of misbranded item having false declaration.

ORDER:-

After taking into consideration of all the facts and circumstances of the case and material on record, I find it is a fit case to impose penalty in terms of Rule 3.1.2(1) of food safety and standards Rules, 2011 and, therefore, impose penalty of Rs.35,000/- (Rs. Thirty five thousand only) on Respondent no.2 and penalty of Rs.10,000/- (Rs. Ten thousand) on Respondent no.1 which shall be paid by the respondents. The Respondents shall deposit the said penalty in this court in the form of a 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.

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.

Pronounced in open court given under my hand and the seal of the seal of this court on day 19th September, 2014.



(Ajay Kumar)
Adjudicating Officer, ADM (South-East)

19/9/14

Copy to

1. Food Safety Officer Department of Food Safety, Govt. of NCT of Delhi,
A-20, Lawrence Road Indl. Area, Delhi-110035.

..... Complainant

Shyam Ahuja M/s Shyam Store 274, INA Market, New Delhi-110023
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