

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1230 OF 2015

Mrs. Guddi Advani and Ors.

.....Applicants

V/s.

Deputy Controller of Legal
Metrology and Ors.

.....Respondents

* * * * *

Ms. Shubhada D. Khote, Advocate for the applicants.

Mr. S.R. Agarkar, APP for respondent no.3, State.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 1ST FEBRUARY, 2017.

P.C. :-

1). This application is directed against the order dated 8th October, 2015 passed by respondent no.1, the Deputy Controller of Legal Metrology directing all the petitioners who are members of a trust, by name Seva Sadan Society to pay compounding fees of Rs.50,000/- to the Government for compounding the offence under Section 18(1) of The Legal Metrology Act, 2009 read with Rules 18(2), 32(2) of The Legal Metrology (Packaged Commodities) Rules, 2011 which is punishable under Section 36(1) of The Legal Metrology Act and as provided under Rule 25 of The Maharashtra

Legal Metrology (Enforcement) Rules, 2011.

2 The brief facts of the case are that, Seva Sadan Society runs a restaurant, by name “M/s. By The Way Restaurant”. On 24th march, 2015 Inspector of Legal Metrology Department on his visit to the Restaurant found that, though the MRP of the coldrink, Raspberry was Rs.18/- it was being sold in the restaurant for Rs.40/- and the bottle of one litre mineral water of Aquafina was sold at Rs.30/- when the MRP was only Rs.20/-. This was in breach of Section 18(1) of Legal Metrology Act. The petitioners who are the trustees agreed for compounding of the offence at the departmental level and by their communication dated 7th April, 2015 informed respondent no.1 accordingly. They expressed their willingness to pay compounding fees in accordance with rules. In response to the offer for compounding the offence at the departmental level, respondent no.1 issued the impugned order calling upon the petitioners to pay compounding fees of Rs.50,000/-.

3. Ms. Khot, learned Advocate appearing for the applicants, submits that, imposition of compounding fees of Rs.50,000/- is not justifiable in law. She draws attention of the Court to Rule 33 of The Legal Metrology (Packaged Commodities) Rules, 2011 which prescribes the amount of compounding fees at Rule 33(3) in a tabular form. The compounding amount for contravention of Section 36(1) prescribed therein is of Rs.5,000/-. Apparently, respondent no.1 imposed the compounding fees of Rs.50,000/- by considering the number of trustees of Sevan Sadan Society. There

are nine trustees of the trust and the impugned order refers to the nine trustees alongwith the restaurant itself. Since the restaurant is being run by the trust, in the facts of the case, respondent no.1 should not have separately made each trustee liable, in addition to the restaurant, to pay the compounding fees of Rs.5,000/-. In the circumstances, the petition is partly allowed. The compounding fee of Rs.50,000/- mentioned in the impugned order is modified to Rs.5,000/- to be paid by the trust. The application is accordingly disposed off.

(SMT. R.P. SONDURBALDOTA, J)