

**237 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

SAO No.52 of 2016 (O&M)

Date of decision : March 14, 2018

M/s Aditya Birla Retail Limited, Ludhiana Appellant

Versus

The Food Safety Officer, Ludhiana Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Anil Chawla, Advocate for the appellant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

CM-14115-CII-2016

There is delay of 96 days in filing the present appeal.

For the reasons mentioned in the application, delay of 96 days in filing the present appeal is condoned, subject to all just exception.

Application stands disposed of.

Main Case

Impugned in the present appeal is the order dated 15.10.2013 passed by the Adjudicating Officer-cum-ADC, Ludhiana, vide which penalty of ₹20,000/- was imposed upon the present petitioner under Section 51 of the Food Safety and Standards Act, 2006/Rules/Regulation 2011 (for short 'the Act') for allegedly keeping in his possession bananas, which were artificially ripened by use of Acetylene Gas (commonly known as carbide gas).

Also impugned is the order dated 29.12.2015 passed by the Presiding Officer, State Food Safety Appellate Tribunal, Punjab, Chandigarh, whereby the appeal against the order passed by the Adjudicating Officer-cum-ADC, Ludhiana, was dismissed.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Learned counsel for the appellant has argued that in this case, the bananas were purchased by the appellant from Apex Fruit Seller and that they should have been summoned before the Adjudicating Officer and that in such case, the appellant is not liable.

Further contention has been raised that the use of said gas to the concentration of 10-1000 ppm is permissible, in view of the instructions dated 13.08.2010 issued by the Food Safety and Standards Authority of India (Ministry of Health and Family Welfare), P.F.A. Division.

I am of the view that from the trial Court order, it comes out that reply was filed. No plea was taken that bananas were purchased from whole sale dealer. Therefore, such plea cannot be raised before the first Appellate Court or before this Court for the first time. Regarding the use of such carbide gas in certain quantity, an application should have been filed before the Adjudicating Officer for this purpose. However, such application was filed and dismissed.

The Adjudicating Officer has observed that use of such gas for ripening bananas can cause various diseases like mouth ulcer, gastric irritation, food poisoning or even cancer. There are concurrent findings recorded by two Courts below. There is no ground to interfere in the same.

As such, the present appeal is dismissed. Miscellaneous application pending, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

March 14, 2018

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Whether speaking / reasoned

Yes

Whether Reportable:

No