

S/L 4-5
02.8.2023
Court No.26
SD

WPA 7440 of 2016

Diamond Beverages Private Limited & Anr.
Vs.
Union of India & Ors.

With
WPA 7441 of 2016

Bengal Beverages Private Limited & Anr.
Vs.
Union of India & Ors.

Mr. Suddhasatwa Banerjee
Mr. Pradip Sanchali
Mr. Biswajit Chowdhury

...for the Petitioners.

Mr. Rajdip Ray
Mr. Goutam Dinda
Mr. Anindya Sundar Chatterjee

...for the KMC.

Since the issue involved in both the writ petitions is similar in nature, the same is taken up together for disposal.

This is an application under Article 226 of the Constitution of India wherein the writ petitioners are aggrieved by orders dated March 8, 2016 and July 14, 2014 (in WPA 7440 of 2016) and orders dated March 8, 2016 and April 25, 2015 (in WPA 7441 of 2016) passed by the respondent nos.3 and 4, respectively.

Mr. Suddhasatwa Banerjee, counsel appearing on behalf of the petitioners, relies on a letter dated April 18, 2016 which is delineated hereinbelow:-

"18th April, 2016

To
Shri D.P. Guha,
FSSAI, MoH&FW,
Benfish Tower,
6th Floor, 31, GN Block,
Sector-V,
Salt Lake,
Kolkata-700091

Subject: W.P. No.3411 of 2016 in M/s. Hindustan Coca-Cola Beverages Before the Hon'ble High Court of Calcutta

Sir,

This is in reference to your mails dated 16th March and April 7th, 2016 wherein the authority has been requested to address the queries raised by the Hon'ble High Court of Calcutta.

- 2. It is clarified that with regard to stating the quantity of sugar on carbonated beverages, if the Food Business Operator depicts the same on the label either in the Nutritional information as per 2.2.2.3 of FSS (Packaging and Labelling) Regulation, 2011 or as per proviso of 2.10.6 of FSS (Food Product Standard and Food Additives) Regulation, 2011, the labelling requirements have been complied with.*
- 3. The above mentioned provisions 2.10.6 of the FSS (Food Product and Additives), Regulation, 2011 & regulation 2.2.2.3 (ii) FSS (Packaging and Labelling) Regulation, 2011 – appear to be overlapping and, hence, need to be harmonised.*
- 4. Accordingly, the FSSAI is taking steps to modify the proviso laid down in 2.10.6 of FSS (Food Product and Additives) Regulation, 2011.*

Yours faithfully,

*Shri Raj Singh
Head (Legal)"*

Mr. Banerjee submits that it is apparent from the letter itself that there is an overlapping the provision and the same need to be harmonised. Accordingly, he submits that the order be quashed and set aside and the authority below be directed to once again grant an opportunity of hearing to the petitioners so that fresh order may be passed, if necessary.

Upon perusal of the record and upon hearing Mr. Banerjee, I am of the view that the matter is required to be remanded for fresh decision and thereafter, the orders dated March 8, 2016, April 25, 2015 and July 14, 2014 are quashed and set aside.

The authorities below are directed to grant an opportunity of hearing to the petitioner and thereafter, pass a reasoned within a period of six weeks from date.

The reasoned order should be communicated to the petitioners within a period of one week of passing the same.

With these observations, both the writ petitions being WPA 7440 of 2016 and WPA 7441 of 2016 are disposed of.

In the event, there is any amount lying with the Registrar General, Appellate Side, petitioners shall be at liberty to withdraw the same along with accrued interest, if any.

Registrar General, Appellate Side is directed to ensure the payment of the same to the petitioners within a period of four weeks from the date of application being made.

There will be no order as to costs.

All parties are to act on the website copy of this order.

(Shekhar B. Saraf, J.)