



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13622 OF 2023

M/s. Oam Industries (India) Pvt. Ltd.

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Mr. D. T. Kharmate a/w. Mr. R. D. Kharmate, Mrs. Vrishali Raje and Mr. Swapnil Mestry, for the Petitioners.

Mr. S. D. Rayrikar, AGP, for the State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 4th NOVEMBER 2023

P.C. :

1. Heard Mr. Kharmate, learned counsel appearing for the Petitioners and Mr. Rayrikar, learned AGP appearing for the State.
2. Mr. Rayrikar, learned AGP files affidavit-in-reply and opposed the prayers in the Writ Petition.
3. The challenge in this Writ Petition is to the order dated 27th July 2023 passed by the Respondent No.3 by which, license of the Petitioners has been suspended for a period of five days. The said order was challenged by filing Appeal No.44 of 2023 before the Appellate Tribunal alias Commissioner of Food Safety. The Appellate Tribunal has stayed the order dated 27th July 2023 till the hearing of

Sonali

the Appeal. The said Appeal was dismissed by order dated 21st September 2023.

4. It is the contention of learned counsel appearing for the Petitioners that although, the impugned order of the Appellate Tribunal has been passed on the ground that there is no provision of “Extended shelf life,” however, the Appellate Tribunal passed the impugned order without considering the definition of **“best before date”** as defined under Section 2(1) (c) of the Food Safety and Standards (Labelling and Display) Regulations, 2020. The said definition is as under:-

2. Definitions-(c) “Best before date” means the date which signifies the end of the period under any stated storage conditions during which the food shall remain fully marketable and shall retain any specific qualities for which tacit or express claims have been made, and beyond that date, the food may still be perfectly safe to consume, though its quality may have diminished. However the product shall not be sold if at any stage the product becomes unsafe;”

(Emphasis added)

Sonali

5. Perusal of the impugned order of the Appellate Tribunal shows that the Appellate Tribunal has passed the order without considering the said definition. Therefore, the matter needs to be remanded back to the Appellate Tribunal.

6. Mr. Rayrikar, learned AGP appearing for the State opposes the same. However, as the learned Appellate Tribunal has not taken into consideration the relevant aspects of the matter, the Appeal is required to be remanded back to the Appellate Tribunal.

7. Accordingly, the impugned order dated 21st September 2023 passed in Appeal No.44 of 2023 by the Appellate Authority alias Commissioner of Food Safety is quashed and set aside and the said Appeal is remanded back to the Appellate Tribunal. The Appellate Tribunal to dispose of the said Appeal on or before 31st December 2023.

8. As the Appeal has been remanded back to the Appellate Tribunal, order of stay operating in said Appeal No. 44 of 2023 shall continue to operate till the disposal of the said Appeal.

9. The Writ Petition is disposed of in above terms with no order as to costs.

[MADHAV J. JAMDAR, J.]