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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 9232/2022**

PURO WELLNESS PRIVATE LIMITED

.....Petitioner

Through: Mr. Sanjoy Ghose, Senior Advocate
with Mr. Jeevan B. Panda, Mr. Satish
P., Mr. Rohan Mandal, Mr. Mohit
Garg, Advocates

versus

THE ADJUDICATING OFFICER & ORS.

.....Respondents

Through: Mr. Udit Malik, ASC with Mr. Vishal
Chanda, Ms. Rima Rao, Advocates
for GNCTD

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.11.2024

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1. The Petitioner is the Marketing Company and the deemed manufacturer of “Puro Healthy Salt” as per the definition of manufacturer as provided in the Food Safety and Standards Act, 2006. They have filed the present petition assailing order dated 25th February, 2022 passed by the Adjudicating Officer under the Food Safety and Standards Act, 2006¹. Through the said order, the Adjudication Officer has imposed penalty on the Petitioner on account of misbranding of the aforesaid salt.

2. The Petitioner claims that “Puro Healthy Salt” has 20% less Sodium compared to other edible common table salt, which is also mentioned on the labels of their products.

¹ “FSS Act”



3. On 21st June, 2018, the Food Safety Officer collected four packets of the product from the retailer, Brij Super Store/ Respondent No. 6, in order to test them in compliance with the FSS Act. Subsequently, the sample was tested by the Food Analyst, Food laboratory, Government of Delhi and report dated 06th July, 2018 was prepared, noting that the Sodium content in the sample was 38.33%. The Designated Officer under the FSS Act issued report dated 12th July, 2018, observing that the sample tested was misbranded and was violative of Regulations No. 2.2.1.3 and 2.3.1.5 of the Food Safety and Standards (Packaging and Labelling) Regulations, 2011. The Designated Officer forwarded the said report to Respondent Nos. 5 and 6. However, a copy of the same was not supplied to the Petitioner.
4. Nonetheless, on 03rd August, 2018, the Petitioner sent a communication referring to the aforementioned report, and presented their facts controverting the allegations raised therein.
5. Thereafter, the Respondents initiated a prosecution by filing complaint before Sh. Dharmendra Kumar, Adjudicating Officer/Additional District Magistrate (New Delhi), which has been adjudicated through the impugned order dated 25th February, 2022.
6. Mr. Sanjoy Ghose, Senior Counsel for the Petitioner, submits that subsequent to the issuance of the impugned order, the Petitioner had submitted their representation dated 28th March, 2022, highlighting facts indicating that the allegations against them were untenable. However, the Respondents have not responded to the said representation.
7. Mr. Ghose also points out that the Petitioner's address of communication, as noted in the prosecution complaint dated 20th December, 2019, was incorrect, and consequently the impugned order could not be



served on them in a time-bound manner, thereby impeding them from availing the appellate remedy under Section 70 of the FSS Act within the stipulated timeline.

8. Mr. Ghose emphasises that the allegations levelled against the Petitioner in the impugned complaint would cast a serious aspersion on their products and, therefore, the Petitioner's contentions must be considered by the Respondent Authorities.

9. He asserts that in so far as the penalty under the impugned order is concerned, the same shall be deposited by the Petitioner without prejudice to their rights and contentions.

10. Considering the fact that the Petitioner's representation was addressed subsequent to the impugned order, and could therefore, not be considered by the Respondent Authorities, the Court is of the opinion that the Petitioner must be afforded one opportunity to present their submissions before the Appellate Authority under the FSS Act.

11. In view of the above, the present writ petition is disposed of with the following directions:

(a) The Petitioner will deposit the penalty without prejudice to their rights and contentions, subject to the final outcome of the appeal.

(b) The Petitioner is permitted to file an appeal against the impugned order dated 25th February, 2022, within a period of two weeks from today. The said appeal shall not be rejected by the Appellate Tribunal on the grounds of limitation, and shall be considered on its own merits, in accordance with law.

12. The Court has not considered the merits of the case. All rights and contentions of the parties are left open.



13. In light of the aforesaid directions, the petition is disposed of.

SANJEEV NARULA, J

NOVEMBER 18, 2024/ab