



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

SAO No.108 of 2017 (O&amp;M)

Date of Order:13.02.2025

**Gurinder Singh and others****.Appellants****Versus****Food Safety Officer and others****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL****Present: Mr. S.S.Brar, Advocate  
for the appellants.****Mr. Anil Bansal, DAG, Punjab****Mr. Mrigank Sharma, Advocate  
for respondent nos.2 and 3.****ANIL KSHETARPAL, JUDGE (Oral)**

1. This second appeal has been filed under Section 70(1) of the Food Safety and Standard Act, 2006 (hereinafter referred to as 'the 2006 Act'), to challenge the correctness of the concurrent orders passed by the Adjudicating Officer which in appeal has been affirmed by the Appellate Tribunal.

2. On 12.11.2014, the competent authority purchased four packets of cinnamon (Imli Tree Idukki) of 100 grams each from M/s Vishal Mega Mart. The packets were processed and packaged by M/s Jugal Trading Company. As per food analysis report, cinnamon was found blended with cassia, hence, the packets were found misbranded. The prosecution was launched by filing a complaint in the court of Additional Deputy Commissioner-cum-Adjudicating Officer.

3. On notice, both the parties appeared. At the first instance, M/s



Jugal Trading Company in his written statement made statement to the following effect:-

*“He is a small trader and abides by Food Safety and Standards Act and all rules. He purchased the cinnamon from the market. He had no knowledge that cassia was mixed in this cinnamon because as cassia and cinnamon look alike and he was not able to gauge that cassia was mixed in the cinnamon he had purchased. He had purchased cinnamon from the broker and packed it in packets after grinding it. He has no parameters for testing cinnamon or cassia. Thus he should be excused this lapse.*

*“I hereby agree to for token penalty, if any, I shall remain more vigilant in future in packing the material”*

4. Subsequently, the learned counsel representing the appellant on 16.02.2016, filed written statement to the following effect:-

*“We agree for token penalty on the next hearing.”*

5. Subsequently, the effort was made to take a somersault. M/s Vishal Mega Mart took a stand that it is not responsible for sale of packaged material. Ultimately, the processor and packager, namely, M/s Jugal Trading Company was fined Rs.7,00,000/-, whereas fine of Rs.3,00,000/- was ordered to be paid by M/s Vishal Mega Mart.

6. The appeal filed before the Appellate Tribunal was also dismissed.

7. The learned counsel representing the appellant while referring to Section 26(4) and Section 80 of the 2006 Act, submits that M/s Vishal Mega Mart is not responsible for any defect in the quality of product particularly when there is declaration in the invoice memo of the manufacturer that the product is of requisite quality. He submits that as per



Section 80(2) of the 2006 Act, one of the defence available to the retailer has been ignored by the courts while penalizing the appellant. The manufacturer/packager has not filed any appeal.

8. It is evident that the adjudicating authority passed the order after the manufacturer as well as the retailer admitted their fault and left the question of penalty upon the adjudicating authority. This was a conscious decision taken by the retailer as well as manufacturer. Two separate statements were made in that behalf. It is not the case of the appellant that they were forced to give such statements. Now they cannot be permitted to take a U-turn. Moreover, it may be one of the defence available to the retailer, however, retailer cannot claim absolute exemption because certain amount of responsibility with the retailer to ensure that the goods which are being sold to the end users are of desired quality. The retailer has not led any evidence to prove that apart from declaration on the packaged material, any steps were taken by it to satisfy with regard to the quality of goods. It is a clear case of unauthorised mixture of cassia with cinnamon powder.

9. Keeping in view the aforesaid facts and discussion, no ground to interfere is made out.

10. Dismissed.

11. All the pending miscellaneous applications, if any, are also disposed of.

**(ANIL KSHETARPAL)**  
**JUDGE**

**February 13, 2025**

**nt**

**Whether speaking/reasoned** : **Yes/No**  
**Whether reportable** : **Yes/No**