

**FOOD SAFETY APPELLATE TRIBUNAL  
JAIPUR, RAJASTHAN**

APPEAL NO.FA/0018/2017

1. Agro Tech Foods Limited, a public limited company existing under Companies Act 2013 having its registered office at 31, Sarojini Devi Road, Secunderabad-500 003 and corporate office at 15<sup>th</sup> Floor, Tower-C, Building No.10, DLF Cyber City, Phase II, Gurgaon-122 031 and Office at Khasra No.112, Namgal Modh, Jhotewara Industrial Area, Jaipur-302 012 through its nominee Mr. Krishna Mohan Dubey Son of Mr. Haushla Prasad Dubey
2. Mr. Krishna Mohan Dubey Son of Mr. Haushla Prasad Dubey, nominee of Agro Tech Foods Limited, a public limited company existing under Companies Act 2013 having its registered office at 31, Sarojini Devi Road, Secunderabad-500 003 and corporate office at 15<sup>th</sup> Floor, Tower-C, Building No.10, DLF Cyber City, Phase II, Gurgaon-122 031 and Office at Khasra No.112, Namgal Modh, Jhotewara Industrial Area, Jaipur-302 012.

--APPELLANTS

Versus

1. State of Rajasthan, through Food Safety Officer, Bhilwara, Office of Chief Medical and Health Officer, Bhilwara
2. Jagdish Chandra Atal Son of Shri Keshri Mal Atal Owner/ Retailer Firm-Maheshwari Sales Agencies Bazaar Number-2 Bhilwara, Rajasthan

--RESPONDENTS

[Respondent no.2 is Pro forma Respondent]

Present :-

Shri Rishabh Khandelwal & Shri Siddharth Bawa, Advocates  
for Appellants

Shri V.D. Gathala, Advocate for Respondent

**JUDGMENT**

Date – 09.06.2017

This appeal is preferred by the appellants under Section 70 of the Food Safety and Standards Act 2006 (hereinafter referred as 'Act of 2006') against the order dated 28.02.2017 passed by Shri L.R. Gugarwal, Adjudicating Officer/ Additional District Magistrate, Bhilwara, Rajasthan in Case No.34/2013 in exercise of powers under Section 68 (2) of the Act of 2006 whereby a penalty of Rs.50,000/- was imposed against each

appellant and pro forma respondent no.2 for violation of provisions contained under Section 3(1)(zf)(i)(a) of the Act of 2006.

2. Appellant no.1 is a company engaged inter-alia in the manufacture & marketing of diverse foods and food ingredients to consumers and institutional consumers. The appellant no.1 manufactures/ markets Sundrop range of cooking medium i.e. cooking oil with several variants. Appellant no.2 is the authorised signatory of the appellant no.1 company. Respondent no.2 is Retailer of the products manufactured by appellant no.1.
3. Sundrop Nutrifit Blended Edible Vegetable Oil manufactured and marketed by appellant no.1 is an admixture of Rice Bran Oil (60%) and Refined Edible Soya bean Oil (40%).
4. Food Safety Officer Bhilwara had on 05.11.2012 taken sample of Sundrop Nutrifit Blended Edible Vegetable Oil from respondent no.2. The sample was analysed by Food Analyst Ajmer on 06.11.2012.
5. The Food Analyst vide its report dated 05.12.2012 stated that sample of Blended Edible Vegetable Oil (Sundrop Nutrifit) bearing Code No. and Serial No.X-385 of Designated Officer cum Food Safety Bhilwara is Misbranded Food because on its label written "The Healthy Oil for Healthy People" is a Misleading Statement, in violation of Regulation 2.4.6(2) of the Food Safety and Standards (Packaging & Labelling) Regulations 2011. The sample is Misbranded Food as per Section 3(1)((zf)(A)(i)(a) of the Food Safety and Standards Act, 2006.
6. After obtaining necessary sanction, complaint was lodged by Food Safety Officer Bhilwara, before the Adjudicating Officer Bhilwara against the appellants and pro forma respondent no.2.
7. Adjudicating Officer vide impugned order dated 28.2.2017 held appellants and respondent no.2 guilty of violation of Regulation 2.4.6(2) of the Labelling Regulations, which constitutes misbranding as defined under Section 3(1)((zf)(A)(i)(a) of the Act of 2006 and imposed the penalty of Rs.50,000/- each against them.
8. Aggrieved by the finding and penalty imposed by the Adjudicating Officer, appellants have preferred this appeal.
9. It is stated in the memo of appeal that impugned order is erroneous; because, it suffers from grave error of law apparent on the face of record, hence, unsustainable.
10. It is further stated that Adjudicating Officer has not assigned any reason for his finding. Bereft of that, order is bad in law.

11. It is further stated that the Food Safety Officer Bhilwara has acted in violation of the procedure laid down under Rule 2.4.1 of the Rules of 2011 which vitiates the entire proceedings.
12. The respondent no.1, in his reply, has controverted the contentions raised by the appellants and stated that impugned order is a reasoned order and prayed to dismiss the appeal.
13. Arguments heard. Record of the case thoroughly scanned; meticulously analysed the relevant provisions of law.
14. Shri Rishabh Khandelwal, learned counsel for appellants would reiterate the grounds taken in appeal.
15. Shri V.D. Gathala, learned counsel for respondent supported the impugned order.

16. **Point for determination**

Whether, learned Adjudicating Officer Bhilwara committed an error of law and fact in holding appellants and respondent no.2 guilty of violation of Regulation 2.4.6(2) of The Food Safety and Standards (Packaging and Labelling) Regulations 2011?

17. **Decision**

Decided against the appellants and pro forma respondent no.2

**Reasons for decision**

18. The tagline used by the appellant on the label is as under: -

"The healthy oil for healthy people"

19. It is just and proper to mention here that in the entire appeal, the expression used for the tagline on the label is mentioned as "Healthy Oil for healthy people" which does not conform to the actual tagline used on the label which is "The healthy oil for healthy people". This tribunal sincerely hope that mistake is inadvertent.

20. Prohibition provided under Regulation 2.4.6(2) of the Food Safety and Standards (Packaging and Labelling) Regulations 2011, is as follows: -

"2.4.6: Specific restrictions on Product Labels

- (2) Labels not to use words implying recommendations by medical profession:- There shall not appear in the label of any package, containing food for sale the words "recommended by the medical profession" or any words which imply or suggest that the food is recommended, prescribed, or approved by medical practitioners or approved for medical purpose."

21. It can be further analysed as under:-  
"There shall not appear in the label of any package, containing food for sale the words  
"recommended by the medical profession"  
or  
any words which **imply**  
or  
suggest that the food is recommended,  
prescribed,  
or  
approved by medical practitioners  
or  
approved for medical purpose."
22. Dictionary meaning of word 'imply' is as under:-  
**'imply'** strongly suggest the truth or existence of (a thing not expressly asserted)  
(Oxford English Reference Dictionary- Second revised Indian Edition)  
It can be said that, word 'imply' indicates the truth or existence of (something) by suggestion rather than explicit reference.
23. Shri Rishabh Khandelwal, learned counsel for appellants would argue that the tagline, nowhere, mention the recommendation by the medical profession or suggest that the oil is recommended or approved by medical practitioners or approved for medical purpose.
24. Whereas Shri V.D. Gathala, learned counsel for respondent no.1 vehemently argued that by necessary implication, it suggest that product is having the approval of experts i.e. medical professionals/practitioners or it can be used for medical purpose also.
25. The tagline "The healthy oil for healthy people" can be further analysed as under:-  
The healthy oil  
for  
healthy people.
- Use of definite article "The" makes it distinctive. Meaning thereby, it suggest that product is distinct and superior to other similar products available in the market. By necessary implication, the expression "The healthy oil" suggests that it bears the approval or recommendation of medical experts.
26. Though the tagline does not claim any superiority from other similar products in the market, but it has the tendency to make believe the consumers that the product is anyway distinct and superior to the similar products available in the market. The tagline has the potential and propensity of misleading the consumers.
27. Therefore, the tagline is in violation of the Regulation 2.4.6(2) of the Food Safety and Standards (Packaging and Labelling) Regulations 2011.

28. It is true that various articles published in various scientific journals have recommended blending of edible vegetable oil. Articles have further explained the requirement of dietary fats and advantage of various ingredients of such oils.
29. It is also laid down in various scientific researches that Rice Bran Oil and soya bean Oil are good sources of Tocotrienols, which are antioxidants beneficial to health; but appellants cannot claim any credit of such research and development. Arguments advanced by the learned counsel for the appellants that product is marketed after much research and development on their part is misplaced.
30. Scientific findings or recommendations of Nutritionists that such type of blending of edible oil is beneficial to health do not permit the appellants to use such tagline in violation of Regulation 2.4.6(2) of the Food Safety and Standards (Packaging and Labelling) Regulations 2011.
31. Learned counsel for appellants relied upon (2010) 3 Supreme Court Cases 732, Secretary and Curator, Victoria Memorial Hall vs. Howrah Ganatantrik Nagrik Samity and Ors, wherein it has been held that reasons are fundamental to justice delivery system. Reasons ensure clarity, objectivity, transparency and fairness in decision making process. Reasons show that there was application of mind.
32. As per learned counsel for appellants, the impugned order is bereft of reasons, therefore, bad in law.
33. I have carefully gone through the impugned order. It cannot be said that order is bereft of reasons. Though, the reasons given by learned Adjudicating Officer may not be elaborate, but it cannot be said that no reason is assigned for the finding.
34. Shri Rishabh Khandelwal, learned counsel for appellants vehemently argued that appellants are using this tagline for 20 years and this is based on scientific research. Be it so, on this basis, appellants cannot be allowed to violate the Regulation 2.4.6(2) of the Food Safety and Standards (Packaging and Labelling) Regulations 2011.
35. No other argument was advanced before me except the arguments discussed hereinabove.
36. From the aforesaid discussion, it is crystal clear that appeal filed by the appellants is devoid of merit, deserves to be dismissed, hence dismissed.

### **ORDER**

37. Appeal against the order of learned Adjudicating Officer Bhilwara dated 28.02.2017 passed in their Case No.34/2013, titled State Vs. Shri Jagdish Chandra Atal &

