

आदेश का क्रम संख्या और तारीख	आदेश और पदाधिकारी का हस्ताक्षर	आदेश पर की गई कारवाई के बारे में टिप्पणी, तारीख के साथ।
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<p>16 3.2.18</p>	<p style="text-align: center;"><u>IN THE COURT OF DEPUTY COMMISSIONER, RANCHI</u></p> <p style="text-align: center;"><u>Food Safety & Standards Case No.-06 /2016-17</u></p> <p>State - Complainant</p> <p style="text-align: center;">Vs</p> <p>Sushil Kumar Srivastava & Another - Accused</p> <p style="text-align: center;"><u>ORDER</u></p> <p>Present proceeding has been initiated on an application submitted for adjudication alongwith the Letter of Sanction for prosecution, Report of Food Analyst, Form 5 & 6, Notice issued to the accused, receipt and Purchase Report contained in Memo No.-44 dated 30.05.2016 of the DFSSO Cum DO Cum ACMO-1, Ranchi, wherein and whereunder the complainant Smt Gulab Lakra, Food Safety Officer, Ranchi has prayed to issue summon and thereupon commence trail against the accused (1) Sushil Kumar Srivastava Son of Late M Prasad, M/s Cake N Snacks, Orchid Mall, Medical Chowk, Bariatu and (2) Staff- Lakhan Das, P.S. Bariatu, District Ranchi and (3) M.D. M/s Shree Krishna Enterprises (Bombay Wafers), C/o Melan Food, Opp. to Vishal Mega Mart, Harmu Road, Ranchi as the sample of Potato Chips (Bombay Wafers) is misbranded within the scope of Section 3 (i) (zf) R/w Section</p>	
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~ 2 ~

23 of FS&S Act, 2006 by virtue of contravention of Regulation 2.2.2.3 of the FS&S (Packaging & Labelling) Regulation, 2011, thus the accused have committed an offence punishable U/s 52 of the FS&S Act, 2006.

According to the complainant, he purchased 320 Grams (80 Grams X 4) Packets of Potato Chips (Bombay Wafers) from the accused for the purpose of analysis on payment of a price of Rs. 88.00 (Eighty Eight Only) and thereafter prepared Memorandum in Form VI and sent part of the sealed sample alongwith Form VI to the Food Analyst for analysis and the remaining parts of the sample alongwith form VI was submitted with the Designated Officer.

As per the report of the Food Analyst, the label of the sample in question does not bear nutritional information in the light of health claim and further, as per the Food Analyst, the sample of potato chips is misbranded within the scope of Section 3 (i) (zf) R/w Section 23 of FS&S Act, 2006 by virtue of contravention of Regulation 2.2.2.3 of the FS&S (Packaging & Labelling) Regulation, 2011.

According to the Learned Government Pleader representing the State, it is proved beyond doubt from the report submitted by the Food Analyst that the sample in question does not bear nutritional information in the light of health claim and further, as per the Food Analyst, the sample

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~ 3 ~

of potato chips is misbranded within the scope of Section 3 (i) (zf) R/w Section 23 of FS&S Act, 2006 by virtue of contravention of Regulation 2.2.2.3 of the FS&S (Packaging & Labelling) Regulation, 2011, hence the accused have committed offence punishable U/s 52 of the FS&S Act, 2006 and according to Section 52 of the said Act of 2006, any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sell or distributes or imports any article of food for human consumption which is misbranded shall be liable to a penalty which may extent to Rs.3,00,000/-.

On the other hand Learned Advocate appearing behalf of the accused no.-2 submits that, the accused is the Managing Director of M/s Shree Krishna Enterprises (Bombay Wafers) and has valid FSSAI Licence No.-11116001000309. The alleged sample in question has not been seized from the possession of the answering accused and also the same has not been seized as per the provisions laid U/s 41 of the FS&S Act, 2006. The accused is a bonafide manufacturer of snacks according to specification laid under the provisions of law. Each and every packet does bear the label under the provisions of law and not a single packet. The alleged packets which have been taken for analysis might have lost the label in transportation as sometimes it might happen due to sime

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1	2	3

~ 4 ~

human or machine error and label could not have been properly posted on the particular packet. The report of the Food Analyst has check the ingredients of the sample in question and except the label observation, all other things are found correct.. The Accused undertakes henceforth that he shall check the label carefully and shall strictly follow the rules under the provisions of FS&S Act, 2006. Having heard both the parties and on perusal of material available on record, I find that the sample in question does not bear nutritional information in the light of health claim and further, as per the Food Analyst, the sample of potato chips is misbranded within the scope of Section 3 (i) (zf) R/w Section 23 of FS&S Act, 2006 by virtue of contravention of Regulation 2.2.2.3 of the FS&S (Packaging & Labelling) Regulation, 2011, hence the accused are guilty of offence punishable U/s 52 of the FS&S Act, 2011 and since the accused has failed to rebut the allegation levelled against him through cogent evidence, hence for the reasons aforementioned, this proceeding is concluded with a penalty of Rs. 25000/- (Rupees Twenty Five thousand only Only) upon the accused no.-3, MD, M/s Shree Krishna Enterprises (Bombay Wafers) taking in consideration the amount of gain and unfair advantage made as result of contravention aforementioned.

Let demand notice be issued upon the accused for recovery of the said penalty in the name of "Adjudicating



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	<p>Officer-Cum-Deputy Commissioner, Ranchi" through Demand Draft and in case the accused fails to deposit the penalty within the time stipulated in the demand notice, the authority concern shall recover the penalty imposed by instituting Certificate Case under Bihar Public Demand Recovery Act against the accused as provided U/s 96 of the Food Safety & Standards Act of 2006 and till the licence (if any) of the defaulter shall be suspended till the penalty is paid. Further, the Designated Officer shall also ensure that, as per Section 31 of the Act of 2006, the accused shall not commence or carry on any food business during the suspension of the Food Licence of accused.</p> <p>Communicate this order to the DFSO-CUM- DO- CUM ACMO-1, Ranchi for information and necessary action.</p> <p>Dictated & Corrected</p> <p>Adjudicating Officer - cum - Deputy Commissioner, Ranchi</p> <p>Adjudicating Officer - cum - Deputy Commissioner, Ranchi</p>	
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