

Ruchi Soya Industries Limited vs Union Of India on 12 July, 2022

Author: A. S. Supehia

Bench: A.S. Supehia

C/SCA/11769/2022

ORDER DATED: 12/07/2022

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11769 of 2022

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RUCHI SOYA INDUSTRIES LIMITED

Versus

UNION OF INDIA

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Appearance:

MR KIRTI PAREKH FOR AMRITA A PATEL(7534) for the Petitioner(s) No. 1

DS AFF.NOT FILED (N) for the Respondent(s) No. 1

MR SUJOY S ROUTH for the Respondent(s) No. 2

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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA

Date : 12/07/2022

ORAL ORDER

1. Rule. Learned advocate Mr.Routh waives service of notice of rule for and on behalf of the respondent No.2.

2. The writ petition has been filed inter alia for the following relief:

"8(B) That the Hon'ble Court be pleased to issue an appropriate writ, order or direction, directing the Respondent no. 2 to send one part of the sample for analysis to the referral laboratory under Rule 2.4.6(1) of the Food Safety and Standards, Rules, 2011."

3. Learned advocate Mr.Parekh at the outset has submitted that the impugned order is required to be quashed and set aside since the same is passed without affording any opportunity of hearing to the petitioner. He has placed reliance on Rule 2.6.4(1) of the Food Safety Standard Rules, 2011 (for short "the Rules"). He has submitted that an appeal/application of the petitioner dated C/SCA/11769/2022 ORDER DATED: 12/07/2022 03.06.2022 is required to be decided, after conferring the opportunity of hearing to the petitioner as per the provision of the said Rules.

4. The brief facts of the case are as under:

4.1 On 21.01.2022, the Central Food Safety Officer, Ahmedabad visited the premises of the petitioner at Gandhidham, Kachchh and drew samples of "Vanaspati" (400g) of General Brand packed on 20.01.2022, best before six months from the packaging with lot number 20A [302] January 2022. The sample was also sent for analysis to the Food Analyst. Panchnama was also came to be drawn, after issuing notice to the petitioner. On 05.02.2022, the Food Analyst submitted his report to the Designated Officer-respondent No.2 opining that the sample was "sub-standard" under Section 3(1)(zx) of the Food Safety and Standard Act, 2006 (for short "the Act") and "Misbranded" under the provision of Section 3(1)(zf)(C)(1) of the Act. Analysis report was sent to the petitioner on 03.03.2022 by the Designated Officer, which was received by the petitioner on 23.03.2022. A notice for prohibition on sale was issued on 19.05.2022 under Section 36(3)(b) of the Act. The petitioner filed an appeal/application on 03.06.2022 under the provision of Rule 2.4.6(1) of the Rules, which has been rejected by the impugned order. It is the case of the petitioner C/SCA/11769/2022 ORDER DATED: 12/07/2022 that the impugned order rejecting the appeal/application has been passed without giving opportunity of hearing to the petitioner on the ground of delay.

5. Learned advocate Mr.Amin appearing for the respondent No.1 has submitted that the notice under Rule 2.4.1(3) of the Rules was issued to the petitioner with regard to samples and impugned order may not be interfered with.

6. Learned advocate Mr.Routh appearing for the respondent No.2 has submitted that the respondent No.2 is ready and willing to decide the appeal, after giving an opportunity of hearing to the petitioner.

7. Heard the learned advocates for the respective parties and also perused the documents as pointed out by them.

8. At this stage, it would be apposite to refer to the Rule 2.4.6 of the Rules, which envisages of giving opportunity to the Food Business Operator, while deciding the appeal.

"2.4.6: Appeal to the Designated Officer. -

1. When an appeal as provided under subsection 4 of section 46 is preferred to the Designated Officer by the Food Business Operator against the report of the Food Analyst, the Designated Officer, shall if he so decides, within thirty days from the receipt of such appeal after considering the material placed before C/SCA/11769/2022 ORDER DATED: 12/07/2022 him and after giving an opportunity to Food Business Operator to be heard shall forward one part of the sample to the referral lab. Such appeal shall be in Form VIII shall be filed within 30 days from the date of the receipt of the copy of the analysis report from the

Designated Officer. Report of the referral laboratory shall be final in this regard.

2. The Designated Officer shall forward one part of the the sample under appropriate condition as specified for the product including transport, to retain the integrity of the sample. The cost of analysis of the sample shall be borne by the Food Business Operator. The remaining samples will also be safely kept under appropriate conditions to prevent deterioration."

9. The respondent No.2 has also shown his willingness to hear the petitioner in his appeal/application.

10. Under the circumstances and in light of the aforesaid statement, the impugned order dated 07.06.2022 passed by the respondent No.2 is quashed and set aside. The respondent No.2 is directed to hear the appeal of the petitioner and decide the appeal/application dated 03.06.2022, after giving opportunity of hearing to the petitioner. The petitioner shall fully cooperate in the hearing of the appeal/application. The final order shall be passed on or before 20.07.2022 since it is the case of the petitioner that the self-life of the sample is going to expire on 20.07.2022. Thus, it appears that if the appeal/application is not decided on or before that date, the entire exercise of the petitioner will be futile exercise. Learned C/SCA/11769/2022 ORDER DATED: 12/07/2022 advocate of the petitioner shall inform the order passed by this Court immediately to the concerned authority.

11. The present writ petition stands allowed in part. Rule made absolute to the aforesaid extent.

Sd/-

(A. S. SUPEHIA, J) NVMEWADA