

Central Consumer Protection Authority

**Ground Floor, CCPA Wing, Indian Institute of Public Administration, IP
Estate, Ring Road, New Delhi, 110002**

Case No: J-25/72/2021-CCPA (Part 5)

In the matter of: Suo-moto case against Clues Network Pvt. Ltd. with regard to sale of pressure cookers which do not conform to compulsory BIS standards.

CORAM:

Ms. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Clues Network Pvt. Ltd.

1. Mr. Avinash K. Sharma, Advocate
2. Mr. Jitendra Singh

Date: 01.06.2022

ORDER

1. The hearing was conducted through video conferencing.
2. This is a suo-moto case taken up by the Central Authority against Clues Network Pvt. Ltd. with regard to sale of domestic pressure cookers which purportedly do not conform to compulsory BIS standards on its e-commerce platform 'Shopclues' available at www.shopclues.com.
3. Notice to the company in this regard was issued on 18.11.2021. The products listed out in the notice were as under:-
 - Quba Aluminium Regular 5 Liter Pressure Cooker with Induction Bottom (Aluminium)
Product Page Link:
<https://www.shopclues.com/quba-aluminium-regular-5-liter-pressure-cooker-with-induction-bottom-aluminium-139702319.html>

- PRISTINE Induction Base Stainless Steel Pressure Cooker, 5L
Product Page Link:
<https://www.shopclues.com/quba-aluminium-regular-5-liter-pressure-cooker-with-induction-bottom-aluminium-139702319.html>
- Ethical TRI-NATURE Pressure Cooker 5 Ltr. Induction Bottom Stainless Steel TriPly SAS
Product Page Link:
<https://www.shopclues.com/ethical-tri-nature-pressure-cooker-5-ltr.-induction-bottom-stainless-steel-triply-sas-152557553.html>

4. In response to the notice, reply dated 24.11.2021 was received from the company. In its reply, the company has submitted that it does not interfere with the selection process of products by consumers or the listing of products by merchants. The company is an intermediary as per the IT Act and as per Section 79 of the Act, an intermediary is not liable for any third party information. Further, company has delisted the products mentioned in the notice. Company has not submitted details of sellers in its reply and stated that if the Authority considers necessary, it will submit their details.

5. Opportunity of hearing as mandated under the Consumer Protection Act, 2019 was given to the company on 13.05.2022 and the following directions were passed by order dated 18.05.2022:-

“Opposite party shall furnish the number of pressure cookers sold through its e-commerce platform and the details of sellers offering such pressure cookers by 20.05.2022. The next hearing shall be held on 20.05.2022.”

6. Pursuant to the order passed by CCPA, reply was received from the opposite party on 20.05.2022 with the details of the pressure cookers which were sold on its platform. Company has also submitted name and address of sellers of the three brands. The details of pressure cookers sold through the platform and details of sellers are as under :-

Sr. No.	BRANDS/ SELLERS	2020	2021	GRAND TOTAL
1.	ETHICAL			
	Ethical Cookware	-	2	2
2.	PRISTINE			
	Sohil impex	13	5	18
3.	QUBA			
	Tekshiv Systems Private Limited	-	8	8
GRAND TOTAL				28

S. No.	Store Name	Brand Name	Address
1.	Tekshiv Systems Pvt. Ltd.	Quba	Quba House, A-16/ 1,2, DLF Industrial Area, Phase -1, Faridabad, Haryana-121003
2.	Sohil.Impex	Pristine	B-19/20, Commerce Centre,78, Tardeo Road, Mumbai
3.	Ethical Cookware	Ethical Cookware	A-126, Wazirpur Industrial Area, Delhi- 110052

7. The hearing scheduled on 20.05.2022 was postponed and was held on 24.05.2022. During the hearing opposite party made the following submissions:-

- We admit that we have been able to get BIS license details of Quba and not of other two sellers.
- Shopclues is not in a position to recall the products. It can inform the seller and the consumers but cannot recall since it is only an intermediary.
- Due diligence, for Shopclues, is only when it is notified.
- With regard to Shopclues Surety program, the company has laid down certain criteria and if seller thinks that they are falling in that criteria, they can choose to be part of the program.

8. It may be mentioned that the Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry notified the Domestic Pressure Cooker (Quality Control) Order, 2020 ("QCO") on 21.01.2020 mandating conformity to standard - IS 2347:2017 and compulsory use of standard mark for 'Domestic Pressure Cooker'. The date of coming into force of QCO was stated as 01.08.2020.

Thereafter, vide Domestic Pressure Cooker (Quality Control) (Amendment) Order, 2020 notified on 23.06.2020, date of coming into force of the QCO was postponed to 01.02.2021. This offered all manufacturers/sellers reasonable time to sell their old stocks and prepare for conformity to the standards prescribed under QCO.

Therefore, since 01.02.2021, any domestic pressure cooker offered for sale in India is required to conform to IS 2347: 2017.

9. Undoubtedly, quality and standard of a good or service not only reduces safety hazard but is also one of the most important factors considered by consumers during a purchase.

Goods or products, which violate the standard required to be maintained by or under any law for the time being in force, are liable to be termed "defective" under the Consumer Protection Act, 2019.

Under Section 2(10) "defect" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly.

Thus, Pressure cookers which do not conform to the compulsory standards are liable to held 'defective' under the Act.

'Consumer rights' as defined under Section 2(9) include:

- (i) the right to be protected against the marketing of goods, products or services which are hazardous to life and property;

(ii) the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;

Further, Rule 4 of the Consumer Protection (e-commerce) rules, 2020 stipulates the duties of e-commerce entities. Sub-rule (3) of Rule 4 states that:-

No e-commerce entity shall adopt any unfair trade practice, whether in the course of business on its platform or otherwise.

10. It is pertinent to mention that the company has also attached the Seller MoU in its reply dated 24.11.2021. Under the Seller MoU, it is clearly mentioned in the "Obligations of merchants" that :-

- i. "The merchant shall pay the selling service fee and fulfillment service fee as agreed."
- ii. "The merchant acknowledges that all payments by Shopclues to the merchants shall be after deduction of any money due from the merchant to Shopclues including selling fees, fulfillment fees, return charges against any other orders, etc."

From the abovementioned clauses in the Seller MoU, it is clear that the opposite party commercially gains and profits from the purchases made by consumers on its platform. With every purchase made by the consumer on Shopclues, the company also earns in form of selling service fee, fulfillment service fee etc. Therefore, the opposite party cannot alienate itself from its role and responsibility in case of issues arising from sale of goods on its platform.

11. Further, the company runs "Shopclues Bazaar Surety" program on its platform under which products are given a 'Shopclues Surety' badge.

The listing for Pristine pressure cooker, mentioned in the Notice, is highlighted with a Surety badge from Shopclues.


PRISTINE Induction Base Stainless Steel Pressure Cooker, 5L
 PRISTINE Product ID: A4429623
 4.3 ★★★★★ (116) 72 Reviews **Surety Great Buy**
 ₹1,586 ₹1,769 MRP ₹2,850 44% off
 Includes all taxes

Original Price		Applicable for All Users		Deal Price
₹1,769	Discount by SureBucks* (₹183)	Use Coupon (₹100)		₹1,586

*All discounts can be availed in the cart page

Extra CluesBucks+ only on HP Club. Join Now
 Material: Stainless Steel
 3 offers Available for you +2 More
 PREPAID20 Get extra Rs 20 off on Prepaid Orders (Use code: PREPAID20) Min. Cart Value: ₹149 | Max. Discount: ₹100 T&C

ADD TO CART BUY NOW

The badge  in the abovementioned listing states “Surety Great Buy”. To a user browsing the Shopclues platform, it gives an impression of quality and authenticity of the product.

By highlighting such a ‘Surety’ badge along with the product listing, the company is playing a role of building trust and confidence in the consumer to purchase the product. Therefore, it cannot be stated that the company has absolutely no role in the sale of pressure cookers on its platform

12. Violation of standards mandated by the QCOs can not only endanger public safety, it can make consumers vulnerable to severe injuries. This is a critical cause for concern especially in case of domestic pressure cooker, which is a household good, present in most homes in the immediate vicinity of family members.

13. When compulsory conformity to standard and requirement of standard mark has been made mandatory by the central government, it was the duty of the opposite party to put in place necessary mechanism for ensuring only valid products are allowed to be sold on its platform. Any proposition of ignorance or unawareness of law cannot be countenanced. By allowing non-standard pressure cookers to be sold on its platform, opposite party has not only violated consumers’ right to be protected against marketing of goods hazardous to life and property and the right to be informed, it has also aided in sale of non-standard pressure cookers by providing a fertile breeding ground through its e-commerce platform.

14. Although the opposite party has submitted license details of Quba after Order dated 18.05.2022, no license details have been submitted for 'Ethical' and 'Pristine' brands of pressure cookers.
15. With regard to license details of Quba, it is relevant to mention that BIS has filed a case against the seller of Quba for offence under Section 29 and 17 of the BIS Act which is case no. COMA 159/2022, pending in the court of Chief Judicial Magistrate, Faridabad. Further, no BIS license details or ISI mark is visible on listing of Quba pressure cooker on the Shopclues platform. Therefore, it cannot be accepted that pressure cookers of Quba sold on the Shopclues platform are BIS certified.
16. As per the data furnished by opposite party, a total of 28 pressure cookers have been sold through Shopclues platform in 2020 and 2021. Since the QCO for pressure cookers came into force on 01.02.2021, it would be apposite to take into consideration data for the year 2021. In 2021, 15 pressure cookers were sold on Shopclues platform. Out of them, 8 products are of Quba, 5 are of Pristine brand and 2 are of Ethical.
17. In view of the above, opposite party is hereby directed to:-
- (a) Notify all consumers of the 15 pressure cookers sold on its platform in 2021, recall the pressure cookers and reimburse their prices to the consumers and submit a compliance report of the same within 45 days.
- (b) Opposite party shall pay a penalty of ₹1,00,000 for allowing sale of pressure cookers in violation to the QCO on its platform and violating rights of consumers.


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Nidhi Khare
Chief Commissioner


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Anupam Mishra
Commissioner

