

Central Consumer Protection Authority

Case No: J-25/72/2021-CCPA (Part 7)

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

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Tekshiv Systems Pvt. Ltd.

1. Mr. Anuj Kataria, Director

Date: 05.06.2023

ORDER

1. Vide order dated 01.05.2023, following directions were passed by the Central Authority –
 - (i) The opposite party shall submit the communication sent by it to e-commerce platforms as well as the responses received from such platforms with respect to the 101 units of domestic pressure cookers sold to consumers within 7 days.
 - (ii) The next hearing shall be held on 15.05.2023
2. The information directed to be submitted as per order dated 01.05.2023 was submitted by the opposite party by e-mail dated 10.05.2023.
3. In the e-mail dated 10.05.2023, the opposite party submitted that it does not contest the figure of 101 units of domestic pressure cookers sold by it. Further, proper reply was received only from Amazon which stated that it will not provide the contact details/mobile number of the customers as

it is against their company policy. No satisfactory reply was received from other online portals. It is stated that the company tried to contact the online portals even after 01.05.2023 as well but in vain. The screenshot of communication held by the company with online portals – Amazon, Flipkart and Shopclues was also attached in the e-mail.

4. The hearing scheduled on 15.05.2023 was rescheduled to 16.05.2023 due to exigency of work.

5. In the hearing held on 16.05.2023, Mr. Anuj Kataria, Director, Tekshiv Systems Pvt. Ltd., appearing on behalf of the opposite party, made the following submissions –

(i) Only Amazon has given us clear reply that sharing contact details is against their company policy. Apart from it, no one else has responded. We have even contacted the portals telephonically but no response was received.

(ii) I will not contest the figure of 101 units sold on online platforms.

(iii) Sanjay Industries has the BIS license which mentions Quba brand name as well. The pressure cookers are manufactured by Sanjay Industries.

(iv) Certificate is on the name of the manufacturer and it mentions brand name. Here, the certificate granted to manufacturer is Sanjay Industries which mentions Quba brand name.

(v) Yes, I agree that violations have been found during the investigation. Therefore, if I say that I am innocent beyond doubt, it would be incorrect.

(vi) I am not the manufacturer. I would not be benefitted by selling non-BIS pressure cooker as the person from whom I'm buying already holds BIS license.

(vii) Upon enquiry by Commissioner, CCPA as to why non-BIS domestic pressure cooker were kept by the opposite party, it was submitted by Mr. Kataria that there was a violation on his end

somewhere or the other and howsoever he may put it, he cannot prove himself 100% innocent.

- iii) With respect to recalling the pressure cookers, it was submitted that the company has already initiated recalling the domestic pressure cooker, even though no direction has been passed in any order as he was informed by online portals. It was submitted that the company has given its consent to online portals to recall the domestic pressure cookers.
6. Upon being informed by Chief Commissioner, CCPA that Orders to e-commerce platforms to notify, recall and reimburse non-standard domestic pressure cookers have been passed by CCPA, Mr. Kataria submitted that e-commerce platforms had sought consent of the opposite party to recall the domestic pressure cookers and he has given his consent to e-commerce platforms. He submitted that he has e-mails as well to substantiate this averment.
 7. It is pertinent to note that as per the investigation report submitted by the Investigation Wing, visit was made at the address Tekshiv Systems Pvt. Ltd. During the visit, it was observed that the firm is having Domestic Pressure Cooker of 5 litre capacity without standard mark and having sticker pasted on the box 'Mfg. – Tekshiv Systems Pvt. Ltd., A-16 1/2 DLF Industrial Area, Phase – I, Faridabad (H.R.), Mfg. Date: 01-10-2021, Brand name – Quba. Two pieces of the pressure cooker were also purchased as material evidence along with invoice and challan.
 8. The manufacturing date on the pressure cooker offered for sale and sold during investigation is 01.10.2021. Clearly, pressure cookers without BIS standard mark were being offered for sale much after the Domestic Pressure Cooker (Quality Control) Order, 2020 ("QCO") came into force i.e., 01.02.2021. Images of the pressure cookers purchased without BIS Standard mark as well as invoice of the same is also mentioned in the investigation report.
 9. The investigation report was sent to the opposite party on 03.04.2023, with the opportunity to make submissions, if any, with respect to the report within 7 days of receipt of the communication.

10. Admittedly, the opposite party does not dispute the correctness of 101 units of domestic pressure cookers sold by it through online platforms i.e., 19 units on Amazon, 67 units on Flipkart, 8 units on Shopclues and 7 units on Paytm Mall (Total – 101 units).
11. Further, the opposite party has also admittedly given its consent to online platforms to recall the domestic pressure cookers. Had the opposite party not sold any non-standard pressure cookers, there was no need for conveying its consent to online platforms to recall the pressure cookers.
12. The investigation report shows that domestic pressure cookers, without BIS mark, with manufacture date 01.10.2021 were being offered for sale to consumers. The manufactured date is clearly beyond the date on which the QCO came into force i.e., 01.02.2021. Hence, it is crystal clear that the opposite party was involved in sale of pressure cookers to consumers in violation of the QCO.
13. While the opposite party claims it is not the manufacturer of Quba domestic pressure cookers, the investigation report finds that the details as mentioned on the pressure cooker shows the manufacturer name as Tekshiv Systems Pvt. Ltd. Even if the argument of the opposite party is accepted that it is not the manufacturer, then it ought not to have mentioned Tekshiv Systems Pvt. Ltd. as the manufacturer on its pressure cooker.
14. The Order dated 13.04.2023 also records the admission of the opposite party that the sticker “Mfg. – Tekshiv Systems Pvt. Ltd.” was pasted by the company and it was their mistake. The order dated 13.04.2023 records the following –

3. Appearing for the company, Mr. Anuj Kataria, Director, admitted that the sticker “Mfg. – Tekshiv Systems Pvt. Ltd.” was pasted by the company and it was their mistake. He submitted that the sticker was pasted on a couple of pressure cookers which says it was “manufactured by”, but it was not “manufactured by”, it should have been saying “manufactured for”. If the sticker is removed, it is mentioned that the pressure cooker is exclusively manufactured for Tekshiv Systems Pvt. Ltd.

4. On inquiry by the Chief Commissioner as to the reason for pasting such stickers, it was submitted by the company that because the price of the pressure cooker increased and lesser price was mentioned on the pressure cooker, the new stickers were pasted to show the increased price.

15. 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 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.

16. 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;
17. Violation of standards mandated by the QCOs not only endanger public safety, but can make consumers vulnerable to severe injuries including loss of life. 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.
18. Moreover, it is pertinent to note that the notification of QCOs is not a sudden overnight action by the Central Government. Before finalizing the notification of a compulsory standard for any good or article, extensive stakeholder discussions are undertaken by BIS and the concerned Ministry for effective implementation of the standard in public interest. Any proposition of ignorance or unawareness of law cannot be countenanced.
19. Since admittedly the opposite party has already given its consent to the online platforms to recall the 101 domestic pressure cookers, it ought to recall and reimburse the prices of the same to consumers as expeditiously as possible.
20. In view of the above, the opposite party is hereby directed to –
- (i) Recall the 101 units of pressure cookers sold by it, reimburse the prices of the recalled pressure cookers to the purchasers and submit a compliance report within 45 days.
- (ii) Pay a penalty of ₹1,00,000 for selling domestic pressure cookers to consumers in violation to mandatory standards prescribed under the QCO.


Nidhi Khare
Chief Commissioner


Anupam Mishra
Commissioner