

Central Consumer Protection Authority
Case no. CCPA/4/2022-CCPA

In the matter of: Suo-moto case against Meesho with regard to sale of acid on e-commerce platform

CORAM:

Mrs. Nidhi Khare, Chief Commissioner

Mr. Anupam Mishra, Commissioner

APPEARANCES

For Fashnear Technologies Private Limited ('Meesho')

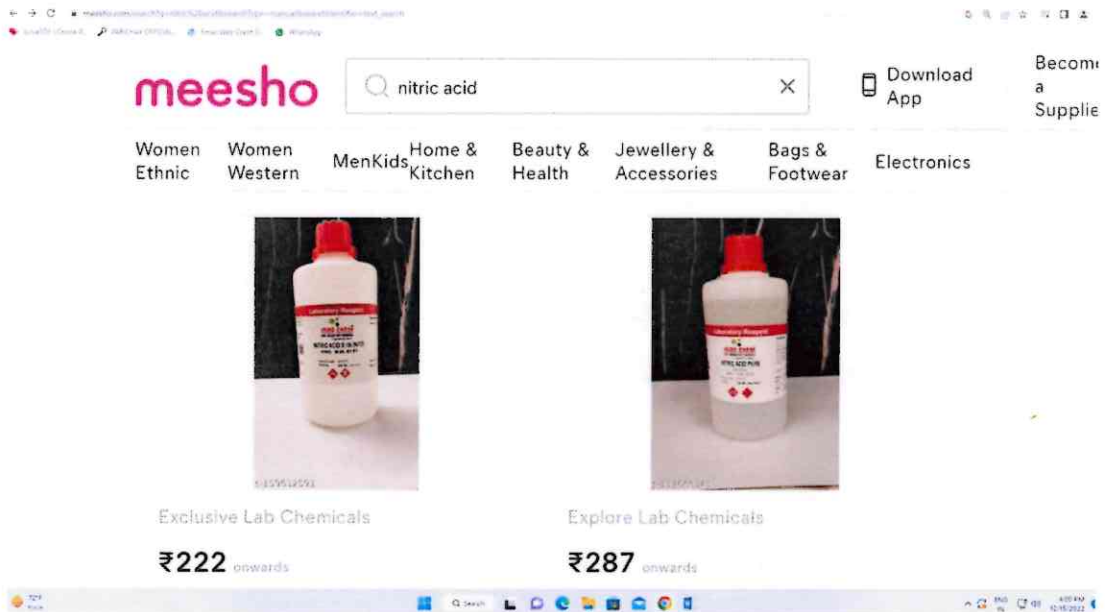
1. Mr. Anupam, Senior Manager
2. Ms. Rachel C.
3. Ms. Nikita Pareek

Date: 25.11.2023

ORDER

1. This is a *suo-moto* case taken up by the Central Authority against Fashnear Technologies Private Limited ('Meesho') with regard to sale of Nitric Acid on its e-commerce platform.
2. Notice in this regard was issued to the company on 15.12.2022. In the notice, it was highlighted that it has come to the notice of CCPA that Nitric Acid, a highly corrosive mineral acid, is being offered for sale on e-commerce platform of Meesho. Availability of acid in such manner can be dangerous, hazardous and unsafe for consumers and public at large.
3. Emphasizing on the directions for sale of acid laid down by the Hon'ble Supreme Court of India in Laxmi vs. Union of India [2014 (4) SCC 427] and the Advisory issued by the Ministry of Home Affairs (MHA), Government of India dated 30.08.2013 on "Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors", the company was requested to furnish its response on compliances undertaken with respect to the directions for sale of acid as mentioned in the advisory. The advisory

along with screenshot of Nitric Acid on Meesho platform were also annexed with the notice.



4. Pursuant to the notice, reply dated 23.12.2022 was received from the company. In the reply, it is stated that the company is operating the platform which is merely an intermediary and it does not have any active participation in the process of selling/buying of products and solely performs a passive role of providing a platform to suppliers for listing their products. Services on the platform are only available to users who can enter legally binding contracts under the Indian Contract Act, 1872 and are above 18 years of age, which is specifically mentioned in the Terms and Conditions available on the platform, which every user agrees to be bound by when signing up on the platform. Furthermore, suppliers are required to mandatorily fill in KYC details which includes bank details, address, phone number et.al. for onboarding over the platform.
5. The company has stated that it keeps a strict eye on products hosted on the platform and requires all the suppliers to adhere to the terms and conditions and other policies that are applicable to them, and require all products listed for sale on the platform to comply with the applicable laws. The company runs regular checks on the products on its platform and removes products which are listed in violation of law and its policies.
6. Every Supplier enters into an agreement (“Supplier Agreement”) with the Company which clearly informs Suppliers that they must not use the platform for selling any product whose sale is regulated or prohibited under any Indian law. For instance, Clause 5.4 of the Supplier Agreement states that: *“Supplier shall not use the Application or the Services, in whole or in part,*

for any purpose that is unlawful or prohibited by this Agreement or any Applicable Law.”

7. There are also relevant terms for users/customers to follow while transacting over the Platform. The Clause 4.3(a)(XIV) of the Terms and Conditions governing the use of the Platform explicitly states that: *“User should not use the Platform to host, display, upload, download, modify, publish, transmit, update or share any information which directly or indirectly, offers, attempts to offer, trades or attempts to trade in any item, dealing of which is prohibited or restricted in any manner under the provisions of any applicable law, rule, regulation or guideline for the time being in force.”* Furthermore, the Platform also carries a legal disclaimer over product display page (“PDP”) of each product in the “More Information” section, stating that the customer/user shall use the products in a safe and legal manner and shall not use it for any illegal purpose. The legal disclaimer mentioned in the reply is as follows –

Legal Disclaimer

Suppliers listing their products on Meesho are solely responsible for the accuracy of product information. You shall use the products in safe and legal manner, and it shall not be used for any illegal purpose. The actual product packaging, material and design may contain more or different information as mentioned here including nutritional information, declarations, claims, instructions of use, warning, disclaimers et. al. It is recommended you read the product label before using/consuming any products and do not solely rely on the product information provided on this platform. Meesho shall not assume any loss, claims, damages, or injury, that may arise from the violent or illegal use, or misuse of the product sold by the suppliers over Meesho.

It was submitted that the listings highlighted in the Notice had been marked out of stock by the supplier and the user cannot place an order for such products. The details of orders placed on its platform, including order ID, order date, customer name, address and customer number were annexed with the reply.

8. Opportunity of hearing as mandated under the Consumer Protection Act, 2019 was given to the opposite party on 02.02.2023 and after hearing the opposite party, following directions were passed :-

“Opposite party shall furnish the following information by 09.02.2023 —

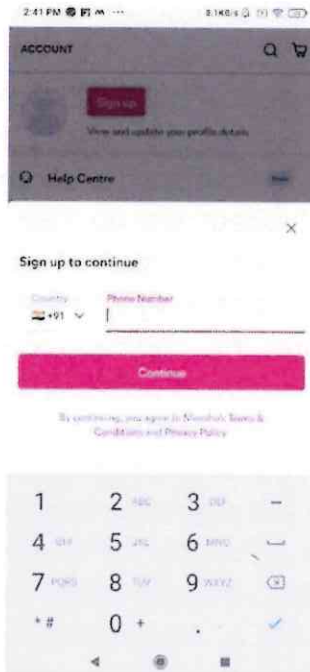
- (i) What is the due diligence undertaken by Meesho to ensure guidelines as laid down by the Hon'ble Supreme Court of

India in Laxmi vs. Union of India with regard to sale of acid are adhered to?

- (ii) Name and contact details of the sellers of Nitric Acid, and specific requirement(s) if any, placed by Meesho on such sellers?
- (iii) What was the purpose of buying the Nitric Acid for each of the 174 orders placed on Meesho and whether age verification of buyers as well as maintenance of logbook has been undertaken in this regard?
- (iv) What steps has the platform undertaken to ensure that requirements as per guidelines laid down by the Hon'ble Supreme Court of India are followed with regard to sale of acid in future?
- (v) Whether the Nitric Acid sold on the platform was beyond the concentration limit as specified by MHA advisory dated 30.08.2013?

The next hearing shall be held on 09.02.2023”

- 9. The hearing scheduled on 09.02.2023 was rescheduled to 13.02.2023 due to exigencies of work.
- 10. With respect to the directions passed in the order dated 02.02.2023, response was received from the company vide e-mail dated 10.02.2023.
 - a) In response to point (i), the company reiterated that services of the platform are available to users/customers who can enter legally binding contracts under the Indian Contract Act, 1872 and are above 18 years of age, which is specifically called out in the Terms and Conditions. The manner in which a user signs in by giving mobile number and reading and accepting the T&Cs is shown by annexing the below image –



The company further reiterated the averments mentioned in the reply dated 23.12.2022 with respect to Clause 4.3(a)(XIV) of the T&Cs, provision of the legal disclaimer and Clause 5.4 of the Supplier agreement.

- b) In response to point (ii), the company submitted names and contact details of the two suppliers of Nitric Acid.
- c) In response to point (iii), it is stated that the supplier(s) who list acid products must be maintaining records/logs of products sold by the customers.
- d) In response to point (iv), it is reiterated by the company that it keeps a strict eye on the products hosted on its platform and requires all suppliers to adhere to the terms and conditions and other policies applicable to them and requires all products to comply with applicable laws. The company regularly runs checks on products and removes products listed in violation of law and its policies.
- e) In response to point (v), it is stated that compliance in terms of sale of acid solely rests with the supplier and accordingly supplier shall ensure that it does not list any acid which is contravening any provisions of law.

11. In the hearing held on 13.02.2023, Mr. Anupam, Senior Manager, Meesho, appearing on behalf of the company submitted the following –

- (i) With respect to the order dated 02.02.2023, response has been submitted on 10.02.2023.
- (ii) As a marketplace, there are T&Cs which have to be complied by user. Screenshot to describe how consent is collected at the time of entering the app is attached in the reply.

- (iii) In the listing of the product, we also clarify to the customer that the product needs to be used in a legal and safe manner. The suppliers also give an undertaking that they will comply with applicable law.
- (iv) In terms of due diligence, we also have quality checks on the application so that products which are listed on the platform are not illegal or prohibited; we do relevant quality checks and we vet it against the list of products that can't be sold on the platform.
- (v) With respect to checking whether a person buying is a minor or not, it was stated that the company cannot do much apart from placing relevant disclaimers in place. It cannot collect personal identification cards or other such details. The company is not in a position to collect any Photo ID, but apart from that relevant details like from where it is placed, when it is placed are collected.
- (vi) Suppliers are intimated for compliance of applicable laws. If found violating the law, we take necessary action.
- (vii) The law on sale of acid, when it came, was mostly from the offline standpoint where the sellers were selling it OTC.
- (viii) With respect to purpose of buying, it is not something which the customer will let us clearly know. For example, a customer might defraud us by saying that it will be used for xyz purpose and then he might be using it for something else. The veracity of purpose cannot be verified. As a marketplace, the best that can be done is to only collect the purpose as to why the acid is being purchased. The customer might choose not to discuss more.

12. The Hon'ble Supreme Court of India in the case of **Laxmi vs. Union of India [W.P. (Cri.) No. 129 of 2006]** in the Order dated **18.07.2013** has issued directions which are required to be complied, with respect to sale of acid and other corrosive substances :-

"8. In the States/Union Territories, where rules to regulate sale of acid and other corrosive substances are not operational, until such rules are framed and made operational, the Chief Secretaries of the concerned States/Administrators of the Union Territories shall ensure the compliance of the following directions with immediate effect:

- (i) Over the counter, sale of acid is completely prohibited unless the seller **maintains a log/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall contain the address of the person to whom it is sold.**
- (ii) All sellers shall sell acid **only after the buyer has shown:**

a) a **photo ID** issued by the Government which also has the address of the person:

b) **specifies the reason/purpose for procuring acid.**

(iii) All **stocks of acid must be declared** by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days.

(iv) No acid shall be sold to any person who is **below 18 years** of age.

(v) In case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose fine on such seller up to Rs. 50,000/-

(vi) The concerned SDM may impose fine up to Rs. 50,000/- on any person who commits breach of any of the above directions.”

13. Pursuant to the directions of the Hon'ble Court, the **Ministry of Home Affairs, Government of India issued Advisory dated 30.08.2013** to all States/UTs on 'Measures to be taken to prevent acid attacks on people and for treatment and rehabilitation of survivors'. The advisory referred to the Order dated 18.07.2013 passed by the Hon'ble Court and included copy of Revised Model Poison Rules, 2013, stating that revision/adoption of the model rules should be done within 3 months from date of communication by States since rule making power is with the States u/s 2 of the Poisons Act. In the interim, following actions would need to be taken where rules to regulate sale of acid are not operational -

“5. In the interim period, the following actions would need to be taken immediately in the State/UT where rules to regulate sale of acid/corrosive substances is not operational to regulate the existing sales through wide publicity in the media including local language:

(i) Banning over the counter sale of acid/corrosives unless the seller maintains a logbook/register recording the sale of acid which will contain the details of the person(s) to whom acid(s) is/are sold and the quantity sold. The log/register shall also contain the address of the person to whom it is sold.

(ii) A sale will be made only when the buyer produces a photo ID issued by the Government which also has the address of the person and proves that he/she is above 18 years of age.

- (iii) The logbook/register should also specify the reason/purpose for procuring acid.
- (iv) All stocks of acid must be declared by the seller with the concerned Sub-Divisional Magistrate (SDM) within 15 days and in case of undeclared stock of acid, it will be open to the concerned SDM to confiscate the stock and suitably impose a fine on such seller up to Rs. 50,000/-.
- (v) The concerned SDM may impose a fine up to Rs.50,000/- on any person who commits breach of any of the above directions. Educational institutions, research laboratories, hospitals, Government Departments and the departments of Public Sector Undertakings, who are required to keep and store acid/corrosive shall maintain a register of usage of acid and the same shall be filed with the concerned SDM.
- (vi) A person shall be made accountable for the possession and safe keeping of acid in their premises. The acid shall be stored under the supervision of this person and there shall be compulsory checking of the students/ personnel leaving the laboratories/place of storage where acid is used. A draft advertisement (Annexure D) is enclosed for consideration.”

14. The company i.e., Fashnear Technologies Private Limited operates the e-commerce platform 'Meesho', available on website www.meesho.com as well as through mobile application.
15. It is a popular e-commerce platform and has a significantly large user base, which is evident from the fact that its mobile application on android platform has more than **10 Crore downloads**. Further, it is eloquently mentioned on the Meesho website that it is '**Trusted by more than 1 Crore Indians**' (**Copy enclosed**).
16. The Revised Model Poison Possession And Sale Rules, 2013 annexed with the MHA Advisory include a Schedule containing List of Poisons. Nitric Acid is mentioned in the 'List of Poisons' at S.No. 13 as "Nitric Acid, except substances containing less than 5 per cent weight in weight of Nitric Acid".
17. The Nitric Acid product which is available for sale on Meesho is '**Nitric Acid Pure (50-52%)**' It is crystal clear that the concentration of acid is clearly higher than the limit prescribed by the MHA Advisory dated 30.08.2013.

Hence, the product comes under the purview of the directions for sale of acid pronounced by the Hon'ble Supreme Court of India and the MHA Advisory.

18. On the question as to whether the buyers were above 18 years of age, the opposite party states that its services can be availed only by users who can enter legally binding contracts under the Indian Contract Act, 1872 and are above 18 years of age as mentioned in the T&Cs. However, no actual mechanism by which such age verification takes place before placing the order. As per the screenshot of the sign-in process noted in Para 10(a) above, any person can sign-in and order the Nitric Acid from Meesho by merely entering their mobile number.
19. With regard to the **174** orders of Nitric Acid sold on its e-commerce platform, the opposite party has miserably failed to produce any information with respect whether the buyers were above 18 years or not, any Photo ID issued by the government produced before buying or the reason for which acid was procured by them.
20. Neither there is any requirement to produce Photo ID issued by the Government, nor there is any manner in which the purpose of buying the acid is recorded by the opposite party before placing an order, which is clear violation to directions of the Hon'ble Supreme Court of India and the MHA Advisory.
21. Hence, sale of Nitric Acid is being enabled by the company with a mere click of a button in a freewheeling and cavalier manner. Due to the laxity by the opposite party in sale of Nitric Acid on its e-commerce platform, consumers and public at large have been left vulnerable, unprotected and unsafe, given that the product is capable of causing severe dermal corrosion.
22. The representative on behalf of Meesho submitted that the law on sale of acid, when it came, was mostly from the offline standpoint where the sellers were selling it OTC. However, this submission cannot be countenanced as mere change in mode of sale cannot be a permit to obfuscate the directions, as per law regulating sale of acid.
23. The Consumer Protection Act, 2019 provides for rights of consumers under Section 2(9). These include the right to be protected against the marketing of goods, products or services which are hazardous to life and property. As noted above, since the Nitric Acid concentration is higher than the limit prescribed in the MHA Advisory, the opposite party ought to have undertaken necessary due diligence to ensure that the mandate of the directions regulating sale of acid are strictly adhered to. By omitting to do the same, the opposite party has violated the rights of consumers as a class.

24. As per Rule 4(3) of the Consumer Protection (e-commerce) rules, 2020, No e-commerce entity shall adopt any unfair trade practice, whether in the course of business on its platform or otherwise. Given that the company has allowed sale and failed to undertake necessary due diligence with regard to sale of Nitric Acid as per law, it has indulged in unfair trade practice.

25. In view of the above, the opposite party is hereby directed to –

(i) Ensure stringent compliance to rules notified by the respective State Government and in absence of the same, of the MHA Advisory dated 30.08.2013 on the mandatory requirements to be followed with respect to sale of acid/corrosive substances and include the following measures –

- a. Before onboarding a seller which sells acid, take a separate undertaking from such seller on proper compliance to each of the mandatory condition regulating sale of such acid.
- b. Mandate the requirement to upload a Photo ID issued by the Government, to ensure that acid is not purchased by any individual below the age of 18 years on Meesho's e-commerce platform.
- c. Include a section during the purchase process where the buyer must provide specific reason/purpose to procure the acid.

(ii) Submit a compliance report on the direction (i) noted above in 15 days.



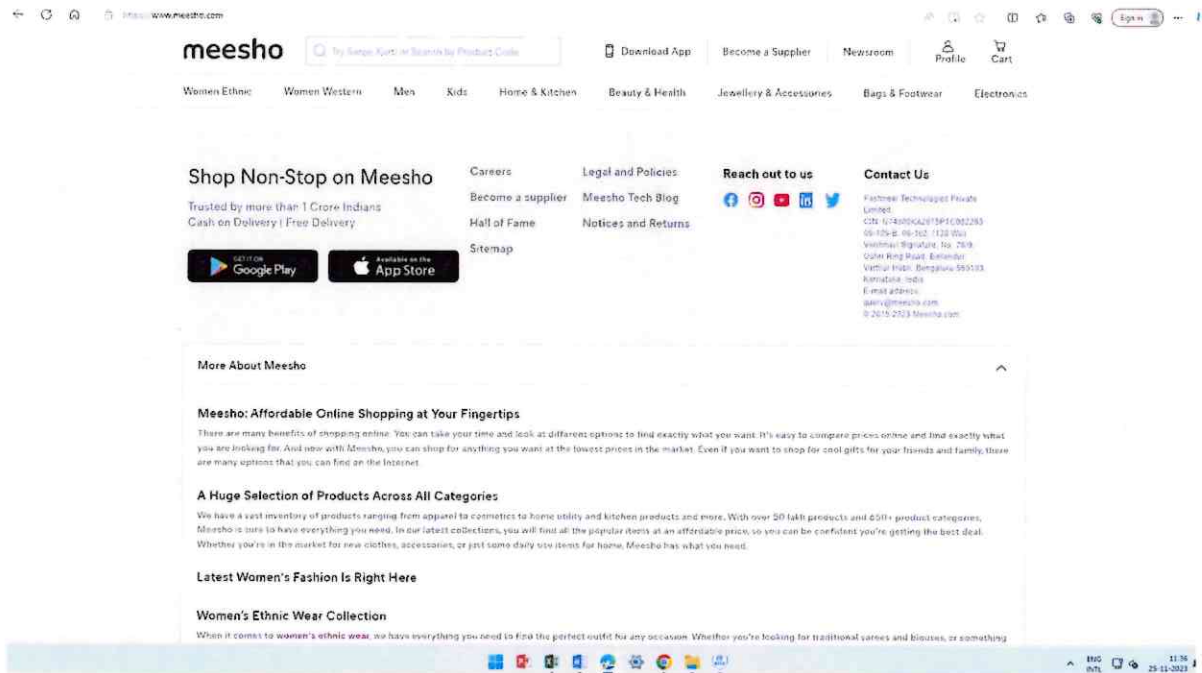
Nidhi Khare
Chief Commissioner



Anupam Mishra
Commissioner

Enclosures

Screenshots from Meesho website (www.meesho.com) on the claim 'Trusted by more than 1 crore Indians'



Screenshot from Google Play Store on 10 Crore+ downloads of Meesho app.

