

Central Consumer Protection Authority
CCPA-2/11/2023-CCPA-Part(2)

In the matter of: Case against Anvi Stationary with regard to sale of toys which do not conform to mandatory BIS standards

CORAM:

Smt. Nidhi Khare, Chief Commissioner

Shri. Anupam Mishra, Commissioner

Appearance on behalf of Anvi Stationary

1. Mr. Manish, representative on behalf of Anvi Stationary

Date: 29.11.2023

ORDER

1. This is a suo-moto case taken up by the Central Authority against Anvi Stationary ('opposite party') with regard to sale of toys in violation to standards directed for compulsory use by law on e-commerce platforms.
2. In this regard, Notice dated 23.03.2023 was issued to the opposite party on 24.03.2023 with a request to furnish its response in the matter within 15 days.
3. In the notice, it was highlighted that it has come to the notice of CCPA that toys which do not conform to BIS standards directed for compulsory use by the Central Government are being offered for sale by Anvi Stationary on Amazon e-commerce platform. Sale of such toys can be dangerous, hazardous and cause injury or harm to consumers. The toy listed in the notice was as under –
 - (i) WudCraft Push and Go Durable 4 Wheel Drive Friction Powered Monster Truck Toy for Kids
https://www.amazon.in/WudCraft-Durable-Friction-Powered-Monster/dp/B09K6H9WJP/ref=sr_1_295?keywords=toys+for+kids&qid=1673333478&srefix=toys+for+%2Caps%2C222&sr=8-295
4. In response to the notice, reply dated 01.04.2023 was received from the company. In its response, the opposite party admitted that it was not aware of the mandatory standards. After receipt of notice from the CCPA, the company

has stopped selling non-compliant products. The opposite party requested for pardon due to lack of knowledge on necessary compliances.

5. Opportunity of hearing as mandated under the Consumer Protection Act, 2019 was provided to the opposite party on 24.08.2023. However, on the scheduled date, none appeared on behalf of the opposite party.
6. Thereafter, a reply e-mail dated 26.08.2023 was received from the opposite party requesting to reschedule the hearing since it missed the communication of the previous hearing.
7. Considering the request made by the opposite party, the next hearing was scheduled on 07.11.2023. Appearing on behalf of the company, Mr. Manish submitted that –
 - (i) The opposite party was not aware of the mandatory standards as per the Toys (Quality Control) Order, 2020.
 - (ii) The business set up by the opposite party is still quite new.
 - (iii) The products were purchased by them from some other proprietor who sells in wholesale and then the opposite party resells them.
 - (iv) On query by the Commissioner, CCPA as to the number of such toys sold by the opposite party, Mr. Manish responded that they had sold 2 Orders of the toys in question and nothing beyond that.
 - (v) The total stock of the product was 1 box which contained around 12 pieces. The selling price of the toy was around Rs. 199.
 - (vi) The toys were purchased by the opposite party from Sadar and a wholesaler from Dwarka. The company does manufacture toys and is only a retailer.
 - (vii) The company only sell on Amazon and there is no physical shop.
 - (viii) There was no indication provided to the opposite party by Amazon on the requirement of mandatory certification before sale.
 - (ix) The company only sells toys and no other products. The company stopped selling non-compliant toys pursuant to notice received by CCPA.
8. Pursuant to the hearing, the opposite party was directed to provide the following information –
 - (i) Amount of sale proceeds from the non-compliant toys sold on Amazon
 - (ii) Number of units of toys sold
 - (iii) Date from which the opposite party started its business

9. With respect to the information directed to be provided in the hearing held on 07.11.2023, an e-mail response was received on 14.11.2023, wherein the opposite party submitted the following information –

Seller Gstin	Invo ice Num ber	Invo ice Dat e	Transa ction Type	Orde r Id	Shipment Id	Ship ment Date	Orde r Date	Shipme nt Item Id	Qua ntity	Item Description	Asin
07DNYPK1 173A1ZX	IN- 1258	05- 01- 202 3 20:1 6	Shipme nt	406- 1615 404- 3536 322	A0809028TYGL QI5OMNFA	06- 01- 2023 12:45	05- 01- 2023 20:02	3.34105 E+11	1	WudCraft Push and Go Durable 4 Wheel Drive Friction Powered Monster Truck Toy for Kids	B09K6H 9WJP
07DNYPK1 173A1ZX	IN- 1258	05- 01- 202 3 20:1 6	Refund	406- 1615 404- 3536 322	A0809028TYGL QI5OMNFA	06- 01- 2023 12:45	05- 01- 2023 20:02	3.34105 E+11	1	WudCraft Push and Go Durable 4 Wheel Drive Friction Powered Monster Truck Toy for Kids	B09K6H 9WJP
07DNYPK1 173A1ZX	IN- 1353	12- 01- 202 3 03:5 1	Shipme nt	402- 7517 559- 7302 716	A02133182ZBX EDZ3086PI	12- 01- 2023 11:35	12- 01- 2023 03:31	3.34264 E+11	1	WudCraft Push and Go Durable 4 Wheel Drive Friction Powered Monster Truck Toy for Kids	B09K6H 9WJP
07DNYPK1 173A1ZX	IN- 1385	14- 01- 202 3 18:3 5	Shipme nt	171- 7878 109- 5109 950	A0107055JRN6 GKHPYV2D	16- 01- 2023 12:06	14- 01- 2023 18:26	3.34343 E+11	1	WudCraft Push and Go Durable 4 Wheel Drive Friction Powered Monster Truck Toy for Kids	B09K6H 9WJP

10. From the above table, it is clear that invoice number IN-1353 (12.01.2023) and IN-1385 (14.01.2023) were shipped to consumers. The invoice number IN-1258 is mentioned in the transaction type as 'shipment' as well as 'refund' on 05.01.2023.

11. No information with respect to the total amount of the sale proceeds from the sale of the non-standard toys and the date on which the opposite party started its business was provided by the opposite party.

12. It may be mentioned that Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry notified the Toys (Quality Control) Order, 2020 ("QCO") on 25.02.2020 (and to come into force from 01.09.2020) which states the application of the QCO as follows -

2. Application.-*In this order, unless the context otherwise requires-*

- (a) *This Quality Control Order shall apply to (Toys) Product or material designed or clearly intended, whether or not exclusively, for use in play by children under 14 years of age or any other product as notified by the Central Government from time to time;*

(b) This order shall apply to Toys as they are initially received by the children and, in addition, this shall apply after a toy is subjected to reasonably foreseeable conditions of normal use and abuse unless specifically noted otherwise.

As per the QCO, the mandatory Indian Standard (IS) on toys are as follows –

Goods or articles	Indian Standard	Title of Indian Standard
(1)	(2)	(3)
Toys	IS 9873 (Part 1) : 2018	Safety of Toys Part I Safety Aspects Related to Mechanical and Physical Properties.
	IS 9873 (Part 2) : 2017	Safety of Toys Part 2 Flammability
	IS 9873 (Part 3) : 2017	Safety Requirements for Toys Part 3 Migration of Certain Elements.
	IS 9873 (Part 4) : 2017	Safety of Toys Part 4 Swings, Slides and Similar Activity Toys for Indoor and Outdoor Family Domestic Use.
	IS 9873 (Part 7) : 2017	Safety of Toys Part 7 Requirements and Test Methods for Finger Paints.
	IS 9873 (Part 9) : 2017	Safety of Toys Part 9 Certain Phthalates Esters in Toys and Children's Products
	IS 15644: 2006	Safety of Electric Toys.

13. Thereafter, vide Toys (Quality Control) Amendment Order, 2020 notified on 15.09.2020, date of coming into force of the QCO was postponed to 01.01.2021. This offered all manufacturers/sellers reasonable time to sell their old stocks and prepare for conformity to the standards prescribed under QCO.

14. 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.

*"(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"*

15. Sale of toys in contravention to the prescribed standards violates the rights of consumers as class. 'Consumer rights' as defined under Section 2(9) includes

—

(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

16. The opposite party admitted in its reply dated 01.04.2023 to the notice issued by CCPA that it was not aware of the QCO. It requested for pardon for lack of knowledge on necessary compliances.
17. With respect to the information sought by CCPA, the opposite party has submitted details of the orders with respect to the toy highlighted in the notice, from which it is clear that invoice number IN-1353 (12.01.2023) and IN-1385 (14.01.2023) were shipped to consumers.
18. As noted above, the QCO is applicable inter alia on toys for use in play by children under 14 years of age. Sale of toys in violation to the mandatory standards notified in the QCO could be a high safety risk for children and could lead to severe harm or injury. When the QCO for toys came into force on 01.01.2021, the opposite party ought to have ensured that toys which do not conform to the prescribed mandatory standards are not sold to consumers.
19. 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.

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

- (i) Recall the 2 units of toys sold by it and reimburse the prices of the recalled toys to the purchasers and submit a compliance report within 30 days.
- (ii) Pay a penalty of ₹500 for selling toys to consumers in violation to mandatory standards prescribed under the QCO.


Nidhi Khare
Chief Commissioner

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Anupam Mishra
Commissioner