Reserved on: 30.05.2026
Delivered on: 18.06.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No.305 of 2024

PepsiCo India Holdings Private Limited …………Appellant

Versus

State of Uttarakhand and another ……….Respondents

Present:- Mr. Rajesh Batra, Mr. Hari Mohan Bhatia and Ms. Sonia Kukreja (through video conferencing), Advocates for the appellant.

Mr. Ganesh Kandpal, Additional Advocate General for the State.

JUDGMENT

Per: Hon'ble Ravindra Maithani, J.

The challenge in this appeal is made to the following:-

(i) The judgment and order dated 31.05.2024, passed in Appeal No.1 of 2019, PepsiCo India Holdings Private Limited and another Vs. State of Uttarakhand and another, by the Food Safety Appellate Tribunal, Dehradun ("the appeal"); and

(ii) Judgment and order dated 21.12.2018, passed in Case No.2 of 2015, State vs. Shashibhushan Pant and others, by the Adjudicating Officer/Additional District Magistrate, Garhwal ("the case"), by which the penalty of Rs.1.5 Lakhs have been imposed on each of the appellants.

2. Heard learned counsel for the parties and perused the record.

3. Briefly stated, according to the case, on 08.06.2015, the Food Safety Officer, Garhwal inspected the shop owned by Mr. Shashi Bhushan Pant in the name and style of M/s N.S., Enterprise, Agency, Badrinath Road, Srinagar, Pauri Garhwal. The

Food Safety Officer after disclosing his identity to the shop keeper purchased four packets of “Lahar Aloo Bhujia”. One of the samples was sent for examination to the Food Laboratory. The analyst opined that the product is misbranded because the label contains the phrase “Maha Value”. Subsequent to the report, sanction for prosecution was sought and, thereafter, the case was filed before the Adjudicating Officer.

4. The Adjudicating Officer issued notice to the appellant, which was replied. The first observation of the public analyst was that the original label does not comply with the Food Safety and Standards Act, 2006 (“the FSS Act”), Food Safety and Standards Rules, 2011 (“the 2011 Rules”), as “Maha Value” is written in the corner of the packet.

5. It has been the case of the appellant that the phrase “Maha Value” on the label could not be termed as violation under the FSS Act and the phrase “Maha Value” is written on the product to indicate/inform the consumer that the product retail package is actually a value package in terms of quantity. The appellant also responded that the product is not misbranded.

6. The exact response given by the appellant is as follows:-

> “**Response to Observation 1:**
>
> At the outset, we wish to submit that the use of words ‘Maha Value’ do not in any manner relate to the food or its quality or nutritive value of the retail package of Lehar Aloo Bhujia. The use of these words cannot constitute violation of any provision of Food Safety and Standards Act, 2006 or Packaging Regulations framed thereunder.
>
> The use of the phrase ‘Maha Value is in compliance of the scheme of Legal Metrology Act and The Legal Metrology (Packaged Commodity) rules, 2011 framed thereunder. The Legal Metrology Act, 2009 is an act to establish and enforce standards of weights and measures,

regulate trade and commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and for matters connected therewith or incidental thereto. The phrase 'Maha Value' is in compliance of Rule 12 of the The Metrology (Packaged commodity) Rules, 2011 which provides that declaration of quantity shall be expressed in terms of such unit of weight, measure or number or a combination which would give an accurate and adequate information to the consumers as regards the weight of the commodity contained in the retail package sold by the company. As regards the additional declaration of quantity, the same is also well within the scheme of the Legal Metrology Act and the Legal Metrology (Packaged Commodity) rules, 2011 framed therein.

Further, the use of term 'Maha Value' upon the product is to indicate to the consumers that the product retail package is actually a Value Package. The following provisions are being reproduced for ready reference:

> *"5. Specific commodities to be packed and sold in recommended standard packages. –*
>
> *[2][(1)] The commodities specified in the Second Schedule shall be packed for sale, distribution or delivery in such standard quantities as are specified in that Schedule.]*
>
> *[1][***]*
>
> *[2][(2)] When one or more packages intended for retail sale are grouped together for being sold as a retail package on promotional offer, every package of the group shall comply with provisions of rule 6.]*
>
> *[2][(3 Notwithstanding anything contained in the Second Schedule, the manufacturer or importer may sell the value based package in terms of Re.1, Rs.2, Rs.3, Rs.4, Rs.5, Rs.6, Rs.7, Rs.8, Rs.9 and Rs.10 after making the other declarations specified in rule 6.]"*

7. After hearing the parties, the Adjudicatory Authority, by the impugned judgment dated 21.12.2018 held that writing of "Maha Value" on the label is in violation of Sections 3(1)(zf)(A)(i) of the FSS Act as well as it is also violation of Rule 2.3.1 of the Food Safety and Standards (Packaging and Labelling) Regulations, 2011 ("the Regulation 2011). Accordingly, under Section 52 of the FSS Act, Rs.1.5 Lakhs penalty was imposed upon the appellant and

upon M/s Bikanerwala Food Products Pvt. Ltd. The Adjudicating Authority did not impose any penalty upon the shopkeeper, he was exonerated. Aggrieved by it, the appellant and M/s Bikanerwala Food Products Pvt. Ltd. preferred an appeal before the Tribunal. The Tribunal confirmed the judgment and order dated 21.12.2018, passed by the Adjudicatory Authority. Hence, the appeal.

8. Learned counsel for the appellant submits that writing of "Maha Value" on the label cannot be termed as misbranded. It has not been proved that the label gives any false information. He would submit that the phrase "Maha Value" refers to the quantity, not quality of the food and there is no reasoning given in the Food Analyst Report, as to why the food is misbranded or/and, as to why the information is false? Therefore, it is argued that based on such incomplete Food Analyst Report even prosecution is not permitted and the penalty that has been imposed, is liable to be set aside.

9. Learned Counsel has referred to Sections 3, 23 of the FSS Act. Regulations 2011 have also been referred to.

10. In support of his contention, learned counsel for the appellant has placed reliance on the principals of law as laid down in the cases of:- (1) Bal Kishan Thapar Vs. Municipal Corporation of Delhi, (1979)2 SCC 459; Parakh Foods Limited Vs. State of Andhra Pradesh and another, (2008)4 SCC 584; Sterling Agro Industrial Ltd. and another Vs. State of Uttarakhand, 2014 SCC OnLine Utt 147;Pepsico India Holdings Pvt. Ltd. and another Vs. State of Madhya Pradesh, M.C.R.C. No.6848/2011 decided on 18.06.2019; Glaxo India Ltd. Vs. State of Assam and others, (2003) 1 Gauhati Law Reports 407.

11. In the case of Bal Kishan Thapar (*Supra*), preparation called 'Para Excellent' and 'Para Asli' were purchased by the Food Inspector and according to the Food Inspector, the shopkeeper sold those preparation as Saccharin. It was argued that it is misbranding. In para 4 of the judgment the Hon'ble Supreme Court held that it is not misbranding. The Hon'ble Court observed as follows:-

> "4...
> ....
> The words, "as sweet as saccharin' were merely meant to convey one of the qualities of the preparation itself and not the quality of saccharin at all. That, by itself, would not attract the provision of Section 2(*ix*)(*a*) of the Act. It was then submitted that in one of the labels under the directions it was mentioned that the preparation was 'para saccharin" which also shows that the appellant intended to pass on the preparation as some sort of saccharin. In the first place, the use of the word 'para saccharin' appears to be a mistake in the facts of the present case because this word is completely absent from the Hindi portion of the directions contained in the same label. Secondly, the word "para saccharin" would not indicate that the preparation sold was saccharin in any form or of any kind. It was just a way of describing it because according to the manufacturers the preparation was as sweet as saccharin. This was mentioned because saccharin being 500 times sweeter than sugar, the manufacturer wanted to convey that the preparation was also much sweeter than sugar and could be used for preparing soda water bottles. It is obvious that if any person who purchased the preparation was not conversant with the English language, he would not be misled at all."

12. In the case of Parakh Foods Limited (*Supra*), on a packet of Soyabean oil there were pictures of vegetables like cabbage, carrot, brinjal, capsicum, cauliflower, tomato and onions, it was termed as misbranded by the Food Inspector. The Hon'ble Supreme

Court has held that it is not misbranding, the Hon'ble Court observed as follows:-

> "**11.** In the present case, it is true that the appellant has used pictures of vegetables on the label of the product which is refined soyabean oil, which according to the appellant is to depict the purpose for which the oil can be used viz. preparation of the vegetables depicted thereon. Unless the picture depicted on a label of edible oils and fats exaggerates the quality of the product, it would not fall within the mischief of Rule 37-D. In the present case, the vegetables shown on the label of soyabean oil do not in any way indicate that the quality of soyabean oil is "super-refined", "extra-refined", "micro-refined", "double-refined", "ultra-refined", "anti-cholesterol", "cholesterol fighter", "soothing to heart", "cholesterol friendly", "saturated fat free", etc. nor it indicates the exaggeration towards the quality of the product to come within the mischief of Rule 37-D of the PFA Rules. In our opinion the High Court has committed a serious error in arriving at a finding that the article of food (soyabean oil) was misbranded since the picture contained on the label has nothing to do with the article of food in question, completely ignoring the fact that the article of food can be used for cooking the vegetables shown in the picture which cannot be said to be exaggerating the quality of the food in question."

13. In the case of Sterling Agro Industrial Ltd. (*Supra*), on a packet of skimmed milk the phrase, "dream of healthy India" was written. The Coordinate Bench of this Court referred to the judgment passed by the other Courts on the subject and in paras 7 and 8 observed as follows:-

> "7. The aforesaid view was also taken by Hon'ble Madras High Court in *Selvakumar* v. *State*, (2011) 2 Crimes (HC) 106, wherein it was observed : -
>
> *"8. .... It is also appropriate to consider the decision of this courtmade in Crl. O.P. (MD) No. 11867 of 2009, wherein this Court has held as follows:*
>
> *"A perusal of the complaint would reveal that it has been merely stated that 'sample' is misbranded as it is not labelled in accordance with Rules 32(f)(i) and 42(zzz) 147 of P.F.A. Rules, 1955. It is not quite clear*

as to how the sample is misbranded and the averments made in the complaint are also bereft of any particulars. There must be a specific averment that the customers are being mislead on account of misbranding and in the absence of any such clear averments, it cannot be said that the customers are mislead or misdirected.*"*

9. A perusal of the public analyst's report would reveal the ***Public Analyst has simply stated that the sample was misbranded since it is not labelled in accordance with the requirements of Rule 37 of P.F.A. Rules, 1955, but he has not mentioned as to how and what manner the sample was misbranded.*** *There must be a specific averment that the customers being mislead on account of misbranding and in the absence of any such clear averments, it cannot be said that the customers are mislead or misdirected."*

8. Similar view was also taken by Hon'ble Gauhati High Court in *Glaxo India Ltd.* v. *State of Assam*, (2003) 1 GLR 407, wherein it was held as follows : -

"18. Much reliance has been placed on a decision reported in 1993 Criminal Law Journal 1106 (Madras High Court) (Corn Products Company, Bombay v. *Food Inspector, Tirunelveli Municipality, Tirunelveli). In that case, the Madras High Court, in dealing with similar matter pertaining to report of the Public Analyst in relation to GLUCOVITA GLUCOSE-'D' wherein it was opined by the Public Analyst that the said product was adulterated, was of the clear view that the GLUCOVITA GLUCOSE-'D' was a "proprietary food" and it cannot at all be stated that any of Sub-clause (a) to (c) and (h) of Clause (ia) of Section 2 of the Act was getting attracted on the face of the very averments adumbrated in the complaint in the sense of the product GLUCOVTTA GLUCOSE-'D' a proprietory food, shall be deemed to be adulterated falling under any one of these sub-clauses (para 29). Relying on the ratio of the said case, Mr. Bhattacharyya has submitted that it is clear and obvious that a proprietory food cannot be a subject-mater of standardization laid down in the Appendix B to the Act. Therefore, simply because the ingredients of the proprietory food do not tally with the said standards, it cannot be said as 'misbranded'.*

20. Basically both the criminal proceedings are founded on the reports of ***the Public Analyst. But amazingly those reports did not reveal how the ingredients of the sample of Glucon-'C' and Glucon-'D', were misbranded****. It is seen that even no endeavour was made at all by the Public Analyst in the reports in question to display as to under which of the clause of Section 2(ix) of the Act, the present articles of food would fall to be called as 'misbranded'. if the reports themselves failed to indicate how the products were misbranded, then*

> *where is the scope for prosecution to proceed with the present criminal proceedings?* ***Therefore, it can be unhesitatingly held that those reports are nebulous and bereft of details and there is no material on records to justify the launching of the instant criminal proceedings against the petitioner on account of misbranding the products in controversy.*** *Moreso, in view of total silence maintained in the reports as regards the comprehensive material facts and particulars, the petitioner is appeared to have been deprived of either any opportunity to defend its case or the right to know under what provision of Law, it has been prosecuted. Accordingly this court finds sufficient force in the submission of the learned sr. counsel of the petitioner and is of the view that the ratio of Food Specialities Ltd., M-54 Connaught Circle, New Delhi* v. *The State of Assam in Criminal Revision No. 422/89 is squarely applicable in this case.'"*
>
> *(emphasis supplied)*

14. After discussing the law on the subject the principle summed up by this Court in para 11, which is as follows:-

> "11. To sum up, the allegation against the applicant is that the words 'dream of healthy India' were scribed on the packets of NOVA Dairy Mix skimmed milk powder manufactured by the applicants, **but neither in the complaint nor in the Public Analyst's report there was allegation that the said label contained false or misleading statement**. Neither the Food Inspector nor the Public Analyst said anywhere that the words, i.e., 'dream of healthy India' on the packets of NOVA Dairy Mix skimmed milk powder carry false or misleading statement."
>
> (emphasis supplied)

15. In the case of Pepsico India Holdings Pvt. Ltd. (*Supra*), the Hon'ble High Court of Madhya Pradesh observed that without reason the opinion of public analyst is as good as no opinion. In para 22, the Court observed as follows:-

> "22. The opinion of the Public Analyst in it report is subjective and not based upon analysis of sample neither it is supported by any such document nor any reference as mentioned above. The opinion of the Public Analyst is optional and non-mandatory. The opinion of the analyst cannot be termed as 'evidence of facts' and the same is not admissible as evidence under the law. The expertise of analyst is only

> confined to the field of analysis of food articles; it does not in any manner extend to the fields of medical sciences or law. **In the present situation where an opinion given by the Public Analyst is devoid of any reasoning and is also in no manner directly or indirectly relatable to the result of analysis, the same is as good as no opinion given and again it would be left to the Court to determine whether the said label constitutes any violation of the Act.**"

(emphasis supplied)

16. In the case of Glaxo India Ltd. (*Supra*), the public analyst has merely given an opinion that the articles were misbranded. The Hon'ble Court held that, "**if the reports themselves failed to indicate how the products were misbranded, then where is the scope for prosecution to proceed with the present criminal proceedings?**" and, accordingly, it was concluded that without there being any reason for giving an opinion about misbranding of the food, the prosecution fails to establish even *prima facie* case.

17. On the other hand, learned State Counsel submits that writing of "Maha Value" on the label of "Lahar Aloo Bhujia" is misbranding under the provisions of the FSS Act.

18. First and foremost, it has to be seen as to what is the report of public analyst? It is as follows:-

"FORM B
Report of the Food Analyst
[(Refer regulation (ii) of 2.3.1)]

Report No. 180/SDFTL/JUN/15-PWL

I certified that I Rajeev Sharma duly appointed under the provisions of Food Safety and Standards Act, 2006 (34 of 2006), for Uttarakhand State received from Food Safety Officer, Sri Nagar, District- Pauri Garhwal U.K.. Sample of Lahar Aloo Bhujia Namkeen bearing Code number and Serial B.S./158/2014. Dated- 08.06.2015 of Designated Officer of Pauri Garhwal area, on 15.06.2015 for analysis.

....
....

Analysis Report:-

(I) Sample Description – The sample was received in manufacturer's original pack.

(II) Physical appearance- Almost yellow coloured namkeen, free from visible fungal growth, insects and any other visible extraneous matter.

(III) Label- Original label does not comply with (Packaging & Labeling) of Food Safety and Standards Act 2006. Rules & Regulation 2011, as Maha Value is written in the corner of the packet.

…………………………………………………………………………………………………
…………………………………………………………………………………………………
…………………………………………………………………………………………………

Opinion:- The sample of Lahar Aloo Bhujia Namkeen bearing Code number and Serial Number B.S./158/2014, is in contravention vide section 3,(1)(zf)(A)(i)(a) of Food Safety and Standards Act-2006, Rules & Regulations 2011 (Packaging & Labelling), for the above tested parameters. Hence Misbranded.

…………………………………………………………………………………………………
…………………………………………………………………………………………………
…………………………………………………………………………………………………

19. A bare perusal of the above report reveals that it has no reason or reasoning as to why the product is misbranded. Specific provision has been quoted by the analyst as to why the product is misbranded and reference has been made to Sections 3(1)(zf)(A)(i) of the FSS Act. It reads as follows:-

> "**3. Definitions.**—(1) In this Act, unless the context otherwise requires,—
> ………………………………………………………………………………………
> ………………………………………………………………………………………
> (*zf*) "misbranded food" means an article of food—
> (A) if it is purported, or is represented to be, or is being—
> (*i*) offered or promoted for sale with false, misleading or deceptive claims either—
> (*a*) upon the label of the package, or
> (*b*) through advertisement, or"

20. Section 23 of the FSS Act also makes provisions with regard to the packaging and labelling of foods. It provides that the label shall not contain any statement, claim, etc. which is false or misleading. This Section reads as follows:-

> "**23. Packaging and labelling of foods**.—(1) No person shall manufacture, distribute, sell or expose for sale or despatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in the manner as may be specified by regulations:

Provided that the labels shall not contain any statement, claim, design or device which is false or misleading in any particular concerning the food products contained in the package or concerning the quantity or the nutritive value implying medicinal or therapeutic claims or in relation to the place of origin of the said food products.

(2) Every food business operator shall ensure that the labelling and presentation of food, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, does not mislead consumers."

21. There is another provision in the Regulation 2011. Regulation 2.3 speaks of manner of declaration and according to 2.3.1.5 the label should not contain false or misleading statement. It reads as follows:-

"2.3.1: *General Conditions*—

....

....

....

5. *Labels not to contain false or misleading statements*: A label shall not contain any statement, claim, design, device, fancy name or abbreviation which is false or misleading in any particular concerning the food contained in the package, or concerning the quantity or the nutritive value or in relation to the place of origin of the said food:

Provided that this regulation shall not apply in respect of established trade or fancy names of confectionery, biscuits and sweets, such as, barley, sugar, bull's eye, cream cracker or in respect of aerated waters, such as, Ginger Beer or Gold Spot or any other name in existence in international trade practice."

22. A reading of judgment dated 31.05.2024 of the Tribunal shows that, in fact, the burden was shifted on the appellant to prove as to what is the sense of using "Maha Value" on the label. In fact, it is the prosecution to establish, as to why the information is misleading. There is a Form VIII A for the report of the food analyst. It requires reasons for the report.

23. In the instant case, the public analyst report simply states that it is misbranded in view of Section 3(1)(zf)(A)(i) of the FSS Act. But, which information is false or misleading? In its initial response, the appellant has stated that the word "Maha Value" was written as to the quantity in compliance of the Scheme of the Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 framed there under. But, this aspect has not been adverted to by the Adjudicating Authority or by the Tribunal. It is up to the prosecution to establish that there is misleading information in the label, which in the instant case the prosecution has, in fact, failed to establish. Therefore, this Court is of the view that the prosecution has not proved that the appellant had committed violation of any provisions of the FSS Act. Both the impugned judgments are not in accordance with law and are liable to be set aside. Accordingly, the appeal deserves to be allowed.

24. The appeal is allowed.

25. The judgment and order dated 31.05.2024, passed in the appeal and the judgment and order dated 21.12.2018, passed in the case are hereby set aside.

(Ravindra Maithani, J.)
18.06.2026

Sanjay