

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

Principal Bench, New Delhi

O.A NO 997/2019

In The Matter of:-

Aditya Dubey (Minor)

Applicant

Vs.

Amazon retail India
(Private Limited) & Ors.

Respondent

AND

O.A No. 28/2020

Aditya Dubey (Minor) through his
Legal Guardian Mrs. Anu Dubey & Anr.

Applicant

Vs.

Coca-Cola India Pvt. Ltd. (CC IPL) & Ors.

Respondent

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(Divya Sinha)

Additional Director

Central Pollution Control Board

Parivesh Bhawan, East Arjun Nagar

Delhi- 110032

Dated: - 04.09.2020

Place: - Delhi

Central Pollution Control Board

01/09/2020

Action Taken Report in the matter of (i) Aditya Dubey (Minor) Vs. M/s. Amazon Retail India Pvt. Ltd. & Ors. (OA No.997/2019) & (ii) Aditya Dubey (Minor) Vs. M/s. Coca-Cola India Pvt. Ltd. & Ors. (OA No. 28/2020)

1.0 Background:

The first petition (OA No. 997/2019) sought enforcement of the liability against Amazon and Flipkart using excessive plastic packaging material without meeting statutory liability.

The second petition (OA No. 28/2020) was against violation of obligation under Rule 9 of the Plastic Waste Management Rules, 2016, by M/s. Coca-cola India Pvt. Ltd., M/s. Hindustan Coca-cola Beverages Pvt. Ltd., M/s. Pepsico India Holding Pvt. Ltd., M/s. Bisleri International Pvt. Ltd., M/s. Parle Agro Pvt. Ltd., M/s. Patanjali Peaya Private Ltd., M/s. NourishCo Beverages Ltd., M/s. Indian Railway Catering & Tourism Corp. Ltd. in terms of principle of Extended Producer Liability.

Vide order dated 18/06/2020 in the above-cited matter, Hon'ble NGT directed as follows:

"The Tribunal sought action taken reports from the CPCB for the violation of statutory liability by the concerned units.

Let the CPCB take appropriate action and file a further report in the matter before the next date.

It is stated that instead of Amazon Retail India Private Limited, liability is of Amazon Seller Service Private Limited which may be looked into by the CPCB."

2.0 Related Provisions of PWM Rules,2018:-

Provision 13 (2): *Every producer or brand-owner shall, for the purpose of registration or for renewal of registration, make an application in Form-I to*

- i. *"The concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating one or two States or Union Territories"; or*
- ii. *"The Central Pollution Control Board, if operating in more than two States or Union Territories".*

Provision 12. Prescribed authority. –

- (1) *The State Pollution Control Board and Pollution Control Committee in respect of a Union territory shall be the authority for enforcement of the provisions of these rules relating to registration, manufacture of plastic products and multi-layered packaging, processing and disposal of plastic wastes;*

3.0 Action Taken Report in the matter of O.A. No. 997/2019:

Status report of M/s Amazon Seller Service Pvt. Ltd and M/s. Flipkart Pvt. Ltd is as follows:

3.1 M/s Amazon Seller Service Pvt. Ltd.:

- In compliance of Hon'ble NGT Order, CPCB sent letter dated 10/07/2020 to M/s Amazon Seller Service Pvt. Ltd. regarding submission of application for registration as a Brand-owner/Producer under PWM Rules, 2018 (**Annexure-I**)
- CPCB further sent reminder letter dated 19/08/2020 for submission of application for registration as a Brand-owner/Producer but the firm hasn't provided any information regarding it so far (**Annexure-II**).
- Vide letter dated 19/08/2020, CPCB also informed the concerned SPCB (Karnataka State Pollution Control Board) on the above said matter for necessary follow-up under provision 13(2) and 12(1) of PWM Rules. (**Annexure-II**).
- Reply in the matter is awaited from the firm as well as from Karnataka State Pollution Control Board.
- M/s Amazon Retail India Private Limited has been registered under PWM Rules by CPCB in July, 2020 in compliance with previous Directions of Hon'ble NGT on the matters.

3.2 M/s. Flipkart Pvt. Ltd.:

- As per last report filed by CPCB in the matter, M/s. Flipkart Pvt. Ltd. was required to submit application for registration or provide requisite documents supporting its linkage with M/s. InstaKart Services Pvt. Limited which is registered with CPCB.
- In this regard, vide letter dated 12/08/2020, M/s InstaKart Services Pvt. limited informed that M/s. FlipKart Pvt. Ltd. is an entity incorporated under the laws of Singapore and does not carry out any operations in India and M/s InstaKart Services Pvt limited is engaged in the business of providing delivery services to the goods sold on FlipKart Marketplace and it will comply with the applicable laws as well as the conditions laid down in the registration as Brand Owner (**Annexure III**)
- No correspondence has been received in this regard from M/s. Flipkart Pvt. Ltd.

4.0 Status report in the matter of O.A. No. 28/2020:

In compliance with provisions of 9(2) and 13(2-ii) of PWM Rules, 2018, out of 8 firms under consideration, following 7 firms have been granted registration by CPCB as Brand Owner/producer.

- M/s. Coca-cola India Pvt. Ltd.
- M/s. Hindustan Coca-cola Beverages Pvt. Ltd.
- M/s. Pepsico India Holding Pvt. Ltd.
- M/s. Bisleri International Pvt. Ltd.
- M/s. Parle Agro Pvt. Ltd.
- M/s. NourishCo Beverages Ltd.
- M/s. Indian Railway Catering & Tourism Corp. Ltd.

All the above mentioned firms are required to comply with the provisions of PWM Rules, 2018 and conditions stipulated in the Registration granted by CPCB.

One firm, M/s. Patanjali Peya Private Ltd. is not registered with CPCB and its status is as follows:

- CPCB issued letter dated 19/08/2020 to M/s. Patanjali Peya Private Ltd. regarding submission of application for registration as a Brand-owner/Producer

under PWM Rules,2018 within seven days but the firm hasn't provided any information regarding it so far. **(Annexure-IV)**.

- Vide latter dated 19/08/2020 ,CPCB informed the concerned SPCB (Uttarakhand State Pollution Control Board) for necessary follow up under provision 13(2) and 12(1) of PWM Rules. **(Annexure-IV)**.
- Response from the firm and Uttarakhand State Pollution Control Board not received by CPCB so far.



(45)
SPEED-POST

Annexure-I
केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

COURT MATTER

F. No.B-17011/7/UPC-II-PWM(MLP)/2020 2416

Dated: 10.07.2020

To,

M/s. AMAZON SELLER SERVICE PVT. LTD.,
8TH FLOOR, BRIGADE GATEWAY 26/1,
DR. RAJKUMAR ROAD, BANGLORE- 560055

Sub: - O.A. No. 997/2019 in the matter of Aditya Dubey (Minor) vs. Amazone Retail India Pvt. Ltd. & Ors. – Reg.

Sir,

With reference to the above mentioned subject, grievance is made against use of excessive plastic packgings material without meeting statutory liability.

In this matter, Hon'ble NGT vide order dated 18.06.2020 (enclosed) stated that "instead of Amazon Retail India Pvt. Ltd., liability is of Amazon Seller Service Pvt. Ltd. which may be looked into by the CPCB."

Further, As per provision 9(2) of Plastic Waste Management Rules, 2016, "Primary responsibility for collection of used multi-layered plastic sachet or pouches or packaging is of Producers, Importers and Brand Owners who introduce the products in the market. They need to establish a system for collecting back the plastic waste generated due to their products".

As per provision 13(2) of PWM Rules, 2016, as amended 2018, "Every producer or brand-owner shall, for the purpose of registration or for renewal of registration, make an application in **Form-I** to:-

- The concerned State Pollution Control Board or Pollution Control Committee of the Union territory, if operating one or two States or Union Territories; or
- The Central Pollution Control Board, if operating in more than two States or Union Territories".

Further, CPCB has prepared a document for "Preparation of Action Plan for Producers/Brand-owners to meet the obligation of Extended Producer Responsibility (EPR). The format of the Action Plan is available on CPCB's website (<https://cpcb.nic.in/registration-for-brand-owner/>).

In view of above, M/s. Amazon Seller Service Pvt. Ltd., is required to submit the application for registration under PWM Rules to CPCB alongwith supporting documents.

Yours faithfully,

Divya Sinha
(Divya Sinha)

Additional Director & In-charge, UPC-II

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत
दिनांक 14/07/2020

O/C



SPEED-POST

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

REMINDER

COURT MATTER

F. No.B-17011/7/UPC-II-PWM(MLP)/2020

Dated: 19.08.2020

To,

M/s. AMAZON SELLER SERVICE PVT. LTD.,
8TH FLOOR, BRIGADE GATEWAY 26/1,
DR. RAJKUMAR ROAD, BANGLORE- 560055

Sub: - In the matter of Aditya Dubey (Minor) vs. Amazon Retail India Pvt. Ltd. & Ors.
(O.A. No. 997/2019) – Reg.

Sir,

This has reference to CPCB letter No. 17011/7/UPC-II-PWM(MLP)/2020/2416 dated 10th July, 2020 in which the firm was requested to submit the application to CPCB for Registration as a Brand-owner/Producer under PWM Rules, 2018, however, any response or application for registration hasn't been received till date.

In view of above, M/s. Amazon Seller Service Pvt. Ltd., is required to submit the application for registration under PWM Rules, 2018 to CPCB or concerned SPCB/ PCC alongwith supporting documents within seven days of receipt of this latter.

Yours faithfully,

Divya Sinha
(Divya Sinha)

Additional Director & In-charge, UPC-II

Copy to:

1. Member Secretary,
Karnataka State Pollution Control Board,
Parisara Bhavan, 4th & 5th Floor,
49, Church St., Bangalore-560 001

For information and follow-up
(under provision 12(1) & 13(2)
of PWM Rules, 2018)

केन्द्रीय प्रदूषण नियंत्रण बोर्ड

नियंत्रण बोर्ड

दिनांक 20/8/20

Divya Sinha
(Divya Sinha)

19/07/2020
20/8/20

InstaKart Services Private Limited

Ms Divya Sinha
Addl. Director & I/c UPC-II
Central Pollution Control Board
Parivesh Bhawan, East Arjun Nagar
Delhi - 110032



AD(PA) by
19/8/20
1428/2020
RACM

Subject: Communication regarding registration of InstaKart Services Pvt. Ltd. ('ISPL' or 'Instakart') as brand owner under Plastic Waste Management Rules, 2016 for operations of Flipkart group of companies in India

Reference: 1) Proceedings pending before the Hon'ble National Green Tribunal in O.A. No. 997/2019 in the matter of Aditya Dubey (Minor) Vs. Amazon Retail India Private Limited & Ors.
2) ISPL Registration as Brand Owner on June 01, 2020 under Plastic Waste Management Rules, 2016 ('PWM Rules')

Dear Ma'am

At the outset, we wish to thank you for all the support provided by the CPCB while issuing the registration to ISPL as the Brand Owner under the PWM Rules on June 01, 2020. Pursuant to the ISPL getting its registration, we learnt about the above referred matter namely, 'Aditya Dubey v. Amazon Retail India Pvt. Ltd.' pending before the Hon'ble National Green Tribunal, ('NGT') where M/s Flipkart Pvt. Ltd. has also been arrayed as a party.

Upon perusal of the records in the said proceedings, we also perused the report dated June 12, 2020 filed by the CPCB, wherein your good offices have indicated that 'M/s Flipkart Pvt. Ltd. is required to submit application for registration directly to CPCB or provide requisite documents supporting its linkage with M/s InstaKart Services Pvt. Ltd.'

In this regard, being a responsible corporate, we wish to clarify the aforementioned position. By way of this letter, we wish to provide status as under:

1. Flipkart Pvt. Ltd. ('**Flipkart Singapore**') is an entity incorporated under the laws of Singapore and does not carry out any operations in India. It is respectfully stated that the Petitioner in the aforesaid Petition before the NGT, the Petitioner erroneously impleaded Flipkart Singapore as a Party. As such, we will be taking appropriate steps to substitute IKS in place of Flipkart Singapore in the proceedings before the NGT.
2. It is reiterated that in so far as our principal business is concerned, kindly note that M/s Flipkart Internet Pvt. Ltd. ('**Flipkart Marketplace**') is an aggregation business to consumer (B2C) platform which serves as a virtual marketplace for consumers to view and buy goods from the catalogue maintained on Flipkart Marketplace by the registered sellers and is not engaged in the packaging and delivery of the bought goods. It plays a limited role in terms of maintaining the online marketplace platform where buyers and sellers can transact for goods.
3. InstaKart is engaged in the business of providing logistics and delivery services to the goods sold on Flipkart Marketplace, including packaging of goods available in the warehouses. As such, while discharging these services, InstaKart is responsible for packaging of goods transacted through the Flipkart Marketplace and that plastic for packaging purposes is *solely* used by InstaKart for the purposes of operation of Flipkart Marketplace in India and is as such responsible for compliance of law in this regard.

Regd off: **Buildings Alyssa, Begonia & Clover, Embassy Tech Village, Outer Ring Road, Devarabeesanahalli Village, Bengaluru - 560103, Karnataka, India.**
CIN: U74900KA2015PTC080778

InstaKart Services Private Limited

4. Accordingly, in view of its responsibility as logistics provider and user of plastic, Instakart filed an application seeking registration as a brand owner under the PWM Rules on 17.10.2018 and was granted registration as a brand owner by CPCB under the PWM Rules on 01.06.2020.
5. Instakart fully recognises its responsibility under the PWM Rules and has proactively undertaken all steps to obtain early registration as "brand owner" under the PWM Rules, and is committed to due compliance of all its obligations thereunder. Instakart is also actively engaged in ascertaining suitable alternatives to plastic for packaging purposes while ensuring a safe disposal of the plastic that is being used currently for packaging purposes.
6. We would like to reiterate our commitment for ensuring sustainable, eco-friendly practices in our businesses and as mentioned above, steps in this regard have been initiated already. Lastly, we wish to address another observation by your good offices in the abovementioned report that CPCB's email of March 04, 2020 was not responded to. In this regard, we most respectfully state that our representatives duly responded to the said email from your good offices on March 13, 2020 and the copy of the same is attached herewith for your ready reference.
7. Hence, in the light of the aforesaid points, your good offices are most respectfully requested to address all future communications with respect to PWM Rules of Flipkart in India to Instakart as it is the concerned entity with respect to all concerns arising out of the plastic waste management responsibilities of the Flipkart in India.
8. Being a responsible corporate, we wish to assure you that we will fully comply with the applicable law as well as the conditions laid down in the registration of Instakart as the Brand Owner. We will be happy to address any further query(ies) that you may have in this regard by appearing personally before your good offices.

Thanking you
Yours truly

N.CH. Ranga Krishna
N.CH Rangakrishna
Authorised Signatory



Regd off: **Buildings Alyssa, Begonia & Clover, Embassy Tech Village, Outer Ring Road, Devarabeesanahalli Village, Bengaluru – 560103, Karnataka, India.**
CIN: U74900KA2015PTC080778



SPEED-POST

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
CENTRAL POLLUTION CONTROL BOARD
पर्यावरण, वन एवं जलवायु परिवर्तन मंत्रालय भारत सरकार
MINISTRY OF ENVIRONMENT, FOREST & CLIMATE CHANGE GOVT. OF INDIA

REMINDER

COURT MATTER

Dated: 19.08.2020

F. No.B-17011/7/UPC-II-PWM(MLP)/2020

To,

M/s. Patanjali Peya Pvt. Ltd.,
Kripalu Bagh, Khakhhal,
Haridwar -249408

Sub: - In the matter of Aditya Dubey (Minor) vs. Coca-Cola India Pvt. Ltd. & Ors. (O.A. No. 28/2020) – Reg.

Sir,

This has reference to CPCB letter No. 17011/7/UPC-II-PWM(MLP)/2020/12159 dated 27th February, 2020 in which the firm was requested to submit the application to CPCB for Registration as a Brand-owner/Producer under PWM Rules, 2018, however, any response or application for registration hasn't been received till date.

In view of above, M/s. Patanjali Peya Pvt. Ltd., is required to submit the application for registration under PWM Rules, 2018 to CPCB or Concerned SPCB alongwith supporting documents within seven days of receipt of this latter.

Yours faithfully,

(Divya Sinha)
(Divya Sinha)

Additional Director & In-charge, UPC-II

Copy to :

1. Member Secretary,
Uttarakhand Environmental Protection &
Pollution Control Board,
29/20, Nemi Road, Dehradun, Uttarakhand-248001

For information and follow-up (under provision 12(1) & 13(2) of PWM Rules, 2018)

केन्द्रीय प्रदूषण नियंत्रण बोर्ड
निर्गत. NS
दिनांक 22/8/20

O/C

(Divya Sinha)
(Divya Sinha)

Item Nos. 06 & 07

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

(By Video Conferencing)

Original Application No. 997/2019

Aditya Dubey (Minor)

Applicant(s)

Versus

Amazon Retail India Private Limited & Ors.

Respondent(s)

AND

Original Application No. 28/2020

Aditya Dubey (Minor) through his Legal Guardian
Mrs. Anu Dubey & Anr.

Applicant(s)

Versus

Coca-Cola India Pvt. Ltd. (CC IPL) & Ors.

Respondent(s)

(With Reports dated 08.06.2020 and 11.06.2020)

Date of hearing: 18.06.2020

**CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL, CHAIRPERSON
HON'BLE MR. JUSTICE SHEO KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. NAGIN NANDA, EXPERT MEMBER**

Applicant(s): Ms. Sakshi Popli, Advocate

Respondent(s): Mr. Sanjay Upadhyay, Adocate for R-1(O.A No. 997/2019)
Mr. Balendu Shekhar, Advocate for CPCB
Ms. Vishruthyi Sahni, Advocate for Pepsico India Holdings Pvt. Ltd.
(O.A No. 29/2020)**ORDER**

1. These applications seeks enforcement of 'Extended Producer Responsibility' under the Plastic Waste Management Rules, 2016. The first

petition seeks enforcement of the liability against Amazon and Flipkart using excessive plastic packaging material without meeting statutory liability. The second petition alleges violation of such statutory liability by M/s Coca-Cola India Pvt. Ltd. (CCIPL), Gurgaon, Haryana, M/s Hindustant Coca-Cola Beverages Pvt Ltd, Gurgaon, Haryana, Pepsico India Holdings Pvt. Ltd., Gurgaon, Haryana, M/s Bisleri International Pvt. Ltd., Mumbai, M/s Parle Agro Pvt. Ltd., Mumbai, M/s Patanjali Peya Private Ltd., Haridwar, Uttarakhand, M/s Nourish Co-Beverages Ltd. (Himalayan Water), Gurgaon, Haryana and M/s Indian Railway Catering & Tourism Corp. Ltd., New Delhi.

2. The Tribunal sought action taken reports from the CPCB for the violation of statutory liability by the concerned units.

3. Reports dated 08.06.2020 and 11.06.2020 filed respectively in two cases do not mention the coercive steps taken in accordance with the provisions of the Environment (Protection) Act, 1986 and the Rules. Coercive steps may include prosecution, recovery of compensation on 'Polluter Pays' principle.

4. Let the CPCB take appropriate action and file a further report in the matter before the next date. Report be sent by e-mail at judicial-ngt@gov.in preferably in the form of searchable PDF/ OCR Support PDF and not in the form of Image PDF.

5. It is stated that instead of Amazon Retail India Private Limited, liability is of Amazon Seller Service Private Limited which may be looked into by the CPCB.

6. *E.A No. 13/2020 in Original Application No. 247/2017, Central Pollution Control Board v. State of Andaman & Nicobar & Ors. and O.A No. 851/2018,*

Amit Jain v. Union of India, involving the same issue which is to come up for hearing on 29.06.2020 be now listed on 10.09.2020.

A copy of this order be sent to the CPCB by email for compliance.

List for further consideration on 10.09.2020.

Adarsh Kumar Goel, CP

Sheo Kumar Singh, JM

Dr. Nagin Nanda, EM

June 18, 2020
Original Application No. 997/2019 &
Original Application No. 28/2020
AK

