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Fair Trading Commission
Seychelles

THE BOARD OF COMMISSIONERS

11th June 2021

CPA/INS11/207

Mr. Somu Sekar Pillay & ORS
Port Glaud Supermarket

Dear Mr. Pillay & ORS,

RE: Fair Trading Commission Vs Mr. Somu Sekar Pillay & ORS (trading as Port Glaud Supermarket)– CPA/INS11/207

In accordance with Section 42(1) of the Fair-Trading Commission Act 2009, please find attached a signed copy of the ruling of the Board of Commissioners of the hearing conducted in the above-mentioned case. We trust in your expedient compliance as per the orders contained herein.

Also note that failure or refusal to comply with this ruling constitutes an offence under Section 53(1) of the Fair-Trading Act 2009. The same is reproduced below:

53 (1) A person which refuses or fails to comply with a direction or order of the commission commits and offence and is liable-

a) Where the person is an individual, to a fine not exceeding SCR 100,000 rupees or to imprisonment for a term not exceeding 2 years or to both
b) Where the person is a person other than the individual to a fine not exceeding SCR 400,000 rupees

Moreover, you have the right to appeal against this decision. To that effect you may, **within Fourteen (14) days of this receipt of this document,** submit a Notice of Appeal setting out your grounds of appeal to:

SESELWA

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Fair Trading Commission
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THE BOARD OF COMMISSIONERS

P O Box 216,
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Francis Rachel Street,
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Telephone: (248)4224881 /
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Email: john.renaud@renaudchambers.sc

Yours Sincerely,

FAIR TRADING COMMISSION

Ms. Chrystal Loizeau
Assistant Registration Officer

For: Chairperson
Board of Commissioners
Fair Trading Commission

SESELWA

THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

(Consumer Protection Act, 2010)

IN THE MATTER OF:

THE FAIR TRADING COMMISSION
V
SOMU SEKAR PILLAY & ORS
(Trading as Port Glaud Supermarket)

Case No: CPA/INS11/207

Complainant – Fair Trading Commission
Respondent – Mr. Somu Sekar Pillay & ORS

QUORUM:
Mr Victor Pool – Commissioner
Mrs Jenna Thelermont-Commissioner
Mr Michael Nalletamby – Commissioner

For the Complainant
Ms. Priyanka Ramruchaya – Legal Officer (FTC)

For the Respondent
Mr. Somu Sekar Pillay & ORS – Shop Owner

RULING

[1] The Fair-Trading Commission (the Commission), pursuant to Section 33(1)(j) of the Fair-Trading Commission Act, 2009 which empowers the Commission to inspect goods, conducted a routine inspection on the 21st November 2019, at the business premises of Mr. Somu Sekar Pillay & Ors, trading as Port Glaud Supermarket located at Port Glaud, Mahe, (the respondent), a business and a supplier of goods as defined by Section 2(1) of the Consumer Protection Act, 2010. The respondent holds a retailer's license number 110032 under the business name Port Glaud Supermarket registered on the 15th January 2009 (A2).

[2] During the inspection, officers, Ms. Rhonda Barreau, Ms. Hazel Renaud and Mr. Curtis Naiken of the Commission observed several breaches of the Consumer Protection Act, 2010, being;

- 1 type of good (16 item) worth SCR 710, was being sold with no plain languages/understandable languages contrary to Section 19 (1)(b) read with Section 19 (2) (a);
- 146 types of goods (2,617 items) worth SCR 55,610 were found to be on display and being sold without a price displayed on them contrary to Section 20 of the Act;
- 4 types of goods (17 items) worth SCR 673 were found to be expired contrary to Section 24 (1) of the Act;
- Furthermore, the record of transactions i.e., receipt being provided to consumers at the time of inspection did not meet the statutory requirements as it did not specify the total price before any applicable taxes. The VAT sticker and VAT certificate was observed to be on display in the shop at the time of the inspection which proves that Port Glaud Supermarket is a VAT registered business bearing the TIN – 993469580. Therefore, the respondent is found to be in breach of Section 25 (1) of the Act;

[3] Subsequently, the Commission filed a case before the Board of Commissioners for the contravention of the Consumer Protection Act, 2010, namely: -

- Section **19(1)(b)** read with Section **19(2)(a)** which provides that "*Where a person is required in terms of this Act or any other written law to produce, provide or display a notice, document or other visual representation to a consumer, that person shall produce, provide or display such notice, document or visual representation in plain language, if no form has been prescribed.*" ***[19(2)*** *For the purposes of this Act, a notice, document or visual representation is in plain language if it is reasonable to conclude that an ordinary consumer of a class of persons to whom the notice, document or visual representation is intended, with average literacy skills and minimal experience as a consumer of the relevant goods or services, could be expected to understand the content, significance and import of the notice, document or visual representation without undue effort, having regard to (a) the context, comprehensiveness and consistency of the notice, document or visual representation.**]***

- Section **20(1)** read with Section **20(3)(a)** which provides that "*Subject to this subsection (2), a retailer shall not display any goods for sale without displaying to the consumer a price in relation to those goods.*" ***[20(3)(a)*** *A price is adequately displayed to a consumer if, in relation to any goods or services, a*

written indication of the price expressed in the currency of the Republic is annexed or affixed to, written, printed, stamped or located on, or otherwise applied to the goods or to, any band, ticket, covering, label, reel, shelf or other thing used in connection with the goods or on which the goods are mounted for display or exposed for sale.]

- Section **24(1)** which provides that *"A person shall not offer to supply, display or supply any particular goods at a date later than the expiry date of the goods."*

- Section **25(1)** *"A supplier of goods and services shall provide a written record of each transaction to the consumer to whom any goods or services are supplied."*

[4] This matter was called for a mention before the Board of Commissioners on the 30th June 2020. Ms. Ramruchaya, Legal Officer of the Fair-Trading Commission appeared on behalf of the Commission and Mr. Kumar Pillay appeared on the respondents' behalf.

[5] This matter was then set for a hearing date, for the 15th December 2020. Ms. Ramruchaya, Legal Officer of the Fair-Trading Commission appeared on behalf of the Commission and the respondent did not attend. Ms. Ramruchaya for FTC moved the Board to enter a plea of judgement by default as the respondent failed to appear for their defense. The Board queried as to the service of summons on the respondent to ensure that he was indeed serviced in the proper manner. The Board was shown the summons and receipt of service of summons signed by the respondent. Being satisfied that service was effected, the Board granted Ms. Vel's motion to proceed *ex parte*.

[6] Ms. Ramruchaya adduced the necessary documents into evidence and prayed the Board to give effect to the prayer for relief contained in the notice of motion.

[7] The Board took time to deliberate on the matter. The Board takes note that the respondent had only been present at the mention, and therefore shall not engage in an in-depth analysis of the facts and law but does appreciate that the evidence on record does substantiate a *prima facie* case against the respondent and therefore finds the respondent, Mr. Somu Sekar Pillay & Ors, trading as Port Glaud Supermarket, to be in contravention of Section 19, Section 20, Section 24 and Section 25 (1), of the Consumer Protection Act, 2010.

[8] The Board, in deciding on a suitable penalty, has considered the mitigating factors that Mr. Pillay did attend before the Board when the matter was first mentioned, but

did not attend the hearing. The Board also takes note that this respondent is not a first-time offender. The Board's memory is fresh with a similar ruling for the same respondent with the same conduct towards the Board in terms of not respecting summons and same contraventions. The Board also takes notice that the volume of items found in contravention of the Consumer Protection Act, 2010 was high. Not fixing price on goods and not providing a proper receipt provide opportunity to overprice customers.

[9] Consequently, the Board hereby impose the following fines on the respondent in accordance with Section 67(1) of the Consumer Protection Act for the above contraventions as follows: -

- **For the contravention of Section 19 the sum of SCR 2000;**
- **For the contravention of Section 20 the sum of SCR 56,000;**
- **For the contravention of Section 24 the sum of SCR 3000;**
- **For the contravention of Section 25 (1) the sum of SCR 6,000.**

All payments are to be made by the respondents at the office of the Fair-Trading Commission not later than Thirty (30) calendar days from the date of receipt of this ruling.

The parties are free to appeal against this ruling to the Appeal Tribunal *(See Section 44 of the Fair-Trading Commission Act, 2009 and Section 77(1) of the Consumer Protection Act, 2010).*

[10] We rule accordingly.

Pronounced by us on this 11th day of June 2021.

Mr. Victor Pool
(Presiding Commissioner)

Mrs. Jenna Thelermont
(Commissioner)

Mr. Michael Nalletamby
(Commissioner)