THE FAIR TRADING COMMISSION

BEFORE THE BOARD OF COMMISSIONERS

IN THE MATTER of the Consumer Protection Act, 2010;

THE FAIR TRADING COMMISSION **Complainant**

VS.

BHARATHI-RAM TRADERS **Respondent**
(Rep herein by Mrs. Oumamaguesvary Karumbayiram Pillay)

CPA.INS.250613.1

QUORUM:
Mr. Colin Jean-Louis – Chairperson
Mrs. Jenna Thelermont – Commissioner
Mr. Michael Nalletamby – Commissioner

For the Complainant
Ms. Emily Mousbe – Legal Officer (FTC)

For the Respondent
Mr. Karumbayiram Pillay

RULING

[1]Pursuant to Section 33(1)(j) of the Fair Trading Commission Act, 2009, the Commission is empowered to conduct inspections to ensure compliance with provisions of the Consumer Protection Act, 2010. On the 25th of June, 2013 Bharathi-Ram Traders, a licensed retailer and now respondent herein, was inspected and found to be in contravention of several provisions the Consumer Protection Act, 2010. The Commission compiled their findings and prepared a case against the respondent to be heard by the Board of Commissioners.

[2]The hearing proceeded on Wednesday 29th August, 2013. Ms. Emily Mousbé, Legal Officer, appeared on behalf of the Commission and she presented four counts against Bharathi-Ram Traders. Those counts and particulars herein are reproduced below:-

Count 1: Offering to supply and displaying goods at a later than the expiry date of the goods contrary to Section 24(1) of the Consumer Protection Act, 2010.

Particulars: Bharathi-Ram Traders on the 25th June, 2013 offered to supply and displayed a total number of 48 items at a date later than the expiry date. (See Exhibit 3)

Count 2: Offering goods for sale without disclosing prices in relation to those goods contrary to Section 20(1) of the Consumer Protection Act, 2010.

Particulars: Bharathi-Ram Traders on the 25th June, 2013 was offering for sale 167 items without an affixed price on them. (See Exhibit 4)

Count 3: Offering goods for sale which was not in an understandable language contrary to Section 19(1) of the Consumer Protection Act, 2010.

Particulars: Bharathi-Ram Traders on the 25th June, 2013 was offering for sale a total of 8 items which were not in a plain and understandable language.(See Exhibit 5)

Count 4: Offering goods for sale which did not have labelling on its packages contrary to Section 22(a)(i-viii) of the Consumer Protection Act, 2010.

Particulars: Bharathi-Ram Traders on the 25th June, 2013 offered for sale 1 item without any labelling. (See Exhibit 6)

[3]Ms. Mousbé concluded by bringing to the Board's attention that the respondent was a first offender but be that as it may the Board should consider a suitable penalty as set out in Section 67(1) of the Consumer Protection Act, 2010 while having regard to Sections 67(1) and 68(1) of the same Act to deter such behaviour. Mr. Karumbayiram Pillay, representing the respondent, openly admitted to those facts and took responsibility for his mistakes. In any case he asked to be excused for this first time and assured the Board that this incident will not be repeated.

[4]The Board of Commissioners has considered all the evidence adduced before it and hereby rules that counts 1, 2 and 3 brought against Bharathi-Ram Traders are upheld. Consequently, the Board shall fine the respondent in the following manner as penalty;

- **For the contravention of Section 24 – SR. 1, 500/-;**
- **For the contravention of Section 20(1) – Sr. 3, 000/-;**
- **For the contravention of Section 19(1) – SR. 3, 000/-**

All fines are to be paid to the Commission not later than thirty (30) days from the date of this ruling.

[5]With regards to Count 4 relating to Section 22 the Board is of the opinion that since the evidence produced shows that there was only one item which did not have proper labelling it will not impose a monetary fine. The Board shall however issue a strong warning to Bharathi-Ram Traders that such incident does not recur.

[6]The parties are free to appeal against this ruling (See Section 44 of the Fair Trading Commission Act, 2009). We so order.

Pronounced by us on this 16th day of October, 2013.

Mr. Colin Jean-Louis
Chairperson

Mrs. Jenna Thelermont
Commissioner

Mr. Michael Nalletamby
Commissioner