IN THE FAIR TRADING APPEAL TRIBUNAL OF SEYCHELLES

SRI IYYANAR STORE

Appellant

Versus

FAIR TRADING COMMISSION

Respondent

Heard: 8th October 2020

Delivered: 22nd December 2020

Case No: CPA.INS.18.64

Appellant: Represented by Mr Balasubramanian Soundarajan

Respondent: Represented by Ms Hazel Renaud

Ruling

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(1) The Appellant, Mr. Balasubramanian Soundarajan, being aggrieved by the decision of the Fair Trading Commission (hereinafter referred to as 'FTC') Board of Commissioners, the Respondent herein, to impose a fine of SCR 14,400 on the Appellant's business dated 17th August 2020, lodged an appeal to this Tribunal on 28th August 2020.

(2) Both parties were present at the hearing of this matter. The Appellant chose to conduct his own case without the assistance of a legal counsel. Neither party objected to the Tribunal's reliance on the case file, which was also served on all parties.

(3) Sri Iyyanar Store appealed against the decision of a fine SCR 14,400 by the Board of Commissioners on the following grounds:

I. That he is a small shop owner with low income.

II. That business is slow, especially with the COVID-19 pandemic he has been severely affected financially.

III. That he has expenses including rent and he will not be able to afford to repay the said sum.

(4) The Complainant (FTC) presented their arguments on the following grounds:

(5) The Appellant was found to be in contravention of **Section 19 (1) (b)** read with **Section 19 (2) (a)** of the **Consumer Protection Act (CPA), 2010** for displaying for sale 2 goods amounting to 13 items in total (worth SCR 87) with labels or information that were not in plain language.

(6) The Appellant also was found to be in contravention of **Section 20 (1)** read with **Section 20 (3) of the CPA, 2010** for displaying 110 types of goods amounting to 928 items in total (worth SCR 18,566.10), for sale without displaying a price in relation to those goods.

(7) In addition, the Appellant was found to be in contravention of **Section 24 (1) of the CPA, 2010** for displaying 8 types of goods amounting to 18 items in total (worth SCR 305), for sale that were past their expiry dates.

(8) A further 6 types of goods (food products mainly) amounting to 24 items (worth SCR 499) were also found displayed for sale passed their best before dates.

(9) Moreover, the Appellant did not provide receipts to consumers for goods supplied contrary to **Section 25 (1) of the CPA, 2010.**

(10) Furthermore, the Appellant was also found to be in contravention of **Section 50 (1) (a) read with Section 50 (2) (a) of the CPA, 2010** by failing to comply with the general safety requirements for displaying goods past their 'expiry dates' and 'best before dates'.

(11) When the case was presented before the Tribunal on 8th October 2020, the Appellant appeared and accept liability for the breaches of the CPA 2010 as stipulated above.

(12) After hearing the arguments of the Appellant and the ground of complaints of the respondent, the Tribunal is of the view that the number of items being displayed without labels or information that were not in plain language is minimal only 13 items in total, and that the fine of SCR 400 is reasonable, hence should be maintained.

(13) As for the number of goods displayed without prices on the shelf is very high amounting to 928 items. This is very alarming and a cause for concern. For this reason, this

Tribunal finds that the Appellant cannot be excused and that the fine of SCR 6,000 is reasonable hence should be maintained.

(14) Although the number of expired items being offered for sale is relatively small, but this Tribunal wants to send a clear message so that it will serve as a lesson to the Appellant and others to take their responsible to ensure that any product on sale is safe for consumption. This Tribunal will stand by the decision of the Board and maintain the fine of SCR 3,000.

(15) A fine of SCR 5,000 was also imposed on the Appellant for failing to provide receipts to consumers for goods supplied and the Tribunal is of the view that this fine is a bit too high and should be reduced to SCR 2,500.

(16) In reference to the above and submissions made by both parties, it is the unanimous view of the Tribunal that the Appellant should pay a total fine equivalent to SCR 11,900 and find that there is no valid reason as to why the Appellant cannot pay the revised fine of SCR 11,900, and hereby grant the Appellant one month to commence from the month of January 2021 to settle the debt in full/or by instalment over a period of 3 months.

(17) Copy of ruling served on all parties on the date of delivery, and a copy of the same is today published on the notice board at the Fair Trading Commission, Unity House, Victoria.

Signed, dated and delivered at Victoria on 21st December 2020

Mr John Renaud (Chairman) _____

Mr. George Tirant _____

Dr. Gerard Adonis _____

FAIR TRADING COMMISSION RECEIVED 30 DEC 2020 CEO'S OFFICE