



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JULY, 2018

BEFORE

THE HON'BLE MR. JUSTICE K.N. PHANEENDRA

CRIMINAL PETITION NO.8106/2013

C/W

CRIMINAL PETITION NO.5358/2013,

CRIMINAL PETITION NO.5357/2013,

CRIMINAL PETITION NO.5359/2013,

CRIMINAL PETITION NO.5393/2013,

CRIMINAL PETITION NO.5394/2013,

CRIMINAL PETITION NO.5395/2013,

CRIMINAL PETITION NO.5396/2013,

CRIMINAL PETITION NO.5397/2013,

CRIMINAL PETITION NO.5398/2013,

CRIMINAL PETITION NO.5399/2013,

CRIMINAL PETITION NO.5400/2013,

CRIMINAL PETITION NO.5401/2013,

CRIMINAL PETITION NO.5360/2013

IN CRL.P NO.8106/2013

BETWEEN:

1. Mr. Leo Crasta
Managing Director
M/s Leo Consumer Products Private Ltd
Near Karangalpady Market
Karangalpady, Mangalore-575001.
2. Mrs. Sylvia Crasta
Director
M/s Leo Consumer Products Private Ltd
Near Karangalpady Market
Karangalpady, Mangalore-575001.

... PETITIONERS

(By Sri Nataraj.R, Advocate)

AND:

1. State of Karnataka
Rep. by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-575001.
2. Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-575001. ... RESPONDENTS

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 29.10.2013 in C.C.No.1771/2013 pending before the J.M.F.C-II, Mangalore, issuing process to the Petitioners, and to quash the criminal proceedings initiated against the Petitioners.

IN CRL.P NO.5358/2013**BETWEEN:**

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Rep. by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner In C.C.No.661/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5357/2013**BETWEEN:**

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of
Legal Metrology

Mangalore Sub Division
Mangalore-575 101.

...RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated:13.02.2013 passed by the JMFC-II Court, Mangalore in C.C.No.660/2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner.

IN CRL.P NO.5359/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated

13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the petitioner in C.C.No.662/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5393/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector
of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.664/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5394/2013**BETWEEN:**

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S. Rachaiiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.665/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5395/2013**BETWEEN:**

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd

K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.666/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5396/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.667/2013 pending before the J.M.F.C-II Court, Mangalore, D K.

IN CRL.P NO.5397/2013**BETWEEN:**

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.668/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5398/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER
(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT
(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.669/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5399/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER
(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of
Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.670/2013 pending before the J.J.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5400/2013

BETWEEN:

Sri Viney Singh
Managing Director

Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.671/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5401/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.672/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

IN CRL.P NO.5360/2013

BETWEEN:

Sri Viney Singh
Managing Director
Max Hyper Market India Private Ltd
K.S.Rao Road, Mangalore
Registered office at 2nd floor
No.39/3 & 44, Banneraghatta Road
Bangalore-560 029. ... PETITIONER

(By Sri Nataraj.R, Advocate)

AND:

State of Karnataka
Represented by Inspector of Legal Metrology
Mangalore Sub Division
Mangalore-570 041. ... RESPONDENT

(By Sri S.Rachaiah, HCGP &
Sri Sandesh J. Chouta, SPP II.)

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure by the advocate for the Petitioner praying to set aside the order dated 13.02.2013 issuing process to the Petitioner and to quash the criminal proceedings initiated against the Petitioner in C.C.No.663/2013 pending before the J.M.F.C-II Court, Mangalore, D.K.

These Petitions coming on for **Admission/Hearing** this day, the Court made the following:

ORDER

In all the above cases, the respondent-Inspector of Legal Metrology, Mangalore Sub-Division, Mangalore has submitted private complaints alleging offences against the petitioners under Sections 18(1), 31, 36(1) of the Legal Metrology Act, 2009 (Hereinafter referred to as the 'Act', for brevity) and also for violation of Rules 11(1)(e), 18, 6(1)(a),(d),(e),(f) and 6(2) of the Legal Metrology (Packaged Commodities) Rules, 2011 (Hereinafter referred to as the 'Rules', for brevity). In some cases, it is alleged that Rule 4, 6(1)(d) is violated and in some other cases Rules 6(1)(a),(d),(e) are violated.

2. Learned counsel appearing for the petitioners herein strenuously contends that, though the Rules invoked by the respondent by way of the above said criminal complaints attracted violation of Rules 6(1)(d), 4 and 6(3) in some cases, but section 18(1) of the Act or 36(1) of the Act are not at all attracted. Even in Criminal Petition No.8106/2013, though Rule 6(1)(a) to (d) is attracted, but again, Sections 18, 31 and 36(1) of the Act are not at all attracted.

3. The petitioners have conceded that, there is no declaration with respect to some of the information which ought to have been made on the pre-packed packages and violation of such Rules are only punishable under Rule 32. Hence, he pleaded for quashing the proceedings for the offence under Sections 18(1), 36(1) and Section 31 of the Act.

4. Before advertng to the above said provisions, it is just and necessary to have brief factual aspects of the above said cases.

5. The complainant (respondent herein), the Inspector of Legal Metrology, Mangalore has in fact, visited the petitioners' retail shops on 21.11.2012 at 4p.m. and on 27.7.2012, found illegalities. It was observed by him that, they found some pre-packed packages and on the said pre-packed packages, they found missing of the *manufacturer's address, date of manufacture/packed month and year, maximum retail price, customer care telephone number and size declared or standard declared*. Further, it is alleged in the complaints that, the respondent asked the petitioners to produce the invoice relating to the said products, which are pre-packed packages, but they have not produced any such documents and therefore, alleging that it constitute an offence under Section 31 of the Act along with other offences, lodged a complaint. For the purpose of easy understanding, and avoiding confusion, a chart is prepared in order to show in which case, the

respondent has invoked which of the provisions of
the offences alleged:-

SL.NO	CASE NO.	ALLEGATION ALLEGED	PAGE NO. PARA NO.	OFFENCES ALLEGED
1	CRL. P 5357/2013	Month and year of manufacture/packaging not declared on the packaging.	Pg 13 Para 6	S. 18(1) of the Act Read with Rule 4, 6(1)(d), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
2	CRL. P 5358/2013	Month and year of manufacturing/packaging not declared on additional sticker.	Pg 11 Para 3	S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
3	CRL. P 5359/2013	MRP and name of manufacturer declared on additional sticker and the customer care number not declared on the packaging.	Pg. 11 Para 3	S. 18(1) of the Legal Metrology Act ('Act') Read with Rule 4, 6(2), 18(1) of the Legal Metrology (Packaged Commodities) Rules ('Rule') which are allegedly punishable under S. 36(1) of the Act.
4	CRL. P 5360/2013	MRP declared on additional sticker.	Pg 9 Para 6	S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
5	CRL. P 5393/2013	Date of import, month and year not declared on the packaging.	Pg 10 Para 6	S. 18(1) of the Act Read with Rule 4, 6(1)(d), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.

6	CRL. P 5394/2013	MRP declared on additional sticker.		S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
7	CRL. P 5395/2013	Complete address of the manufacturer was not declared on the packaging.	Pg 10 Para 6	S. 18(1) of the Act Read with Rule 4, 6(1)(a), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
8	CRL. P 5396/2013	Complete address of the manufacturer was not declared on the packaging.	Pg 11 Para 3	S. 18(1) of the Act Read with Rule 4, 6(1)(a), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
9	CRL. P 5397/2013	MRP declared on additional sticker.	Pg 10 Para 6	S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
10	CRL. P 5398/2013	MRP not declared on packaging.	Page 10 Para 6	S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
11	CRL. P 5399/2013	MPP and manufacturing date declared on additional sticker on packaging.	Pg 10 Para 6	S. 18(1) of the Act Read with Rule 4, 6(1)(e), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
12	CRL. P 5400/2013	MRP declared on additional sticker.	Pg 10 Para 6	S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.
13	CRL. P 5401/2013	MRP declared on additional sticker	Pg 8 Para 6	S. 18(1) of the Act Read with Rule 4, 6(3), 18(1) of the Rules which are allegedly punishable under S. 36(1) of the Act.

6. On careful perusal of the allegations made in all the cases, it is found that the main allegations are that the petitioners have not displayed on the pre-packed packages, the *address, date of manufacture/packed month or year, maximum retail price, customer care number, declared size and declared standard unit*. Except that there is no allegation of whatsoever, to the effect that, when those pre-packed packages were opened, there were any differences with regard to the weight, number and the standard quality of the articles packed. Therefore, the learned counsel contends that neither Section 18(1) nor Section 36(1) of the Act are attracted. In this background, the Court has to examine whether offence under Section 18 is made out so as to invoke Section 36 of the Act. Section 18 of the Legal Metrology Act reads as follows:

“Sec.18. Declarations on pre-packaged commodities

(1) No person shall manufacture, pack, sell, import, distribute, deliver, offer,

*expose or possess for sale any pre-packaged commodity **unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.***

*(2) **Any advertisement** mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the **net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.***

7. Therefore, if Section 18(1) is properly understood, there must be a declaration on the pre-packaged commodities. Thereafter, unless there is some discrepancy inside the package, regarding the weight, standard quantity and quality and number and such standard quantity or number must be contained inside the said pre-packaged commodity. If there is any violation of Section 18(1), then only section 36(1) is attracted. Section 36(1) reads thus:

“Sec.36 Penalty for selling, etc., of non-standard packages.

(1) Whoever manufactures, packs, imports, sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any pre-packaged commodity **which does not conform to the declarations on the package as provided in this Act,** shall be punished with fine which may extend to fifty thousand rupees and for the subsequent offence, with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

(2) Whoever manufactures or packs or imports or causes to be manufactured or packed or imported, any pre-packaged commodity, **with error in net quantity as may be prescribed shall be punished** with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and for the second and subsequent offence, with fine which may extend to one lakh rupees or with

imprisonment for a term which may extend to one year or with both.”

(emphasis supplied)

8. On a meaningful understanding of this provision, it is clear that the responsibility is on the persons, who pack the commodity with reference to the articles inside the said pre-packaged packages. If the commodity inside the said package does not conform to the declaration on the package, as provided in the Act, he shall be punished with fine and so on. Therefore, according to Section 18, the packaged commodity should conform to the declaration made on the packages and if there is any difference, then only Section 36 is attracted which is punishable under Section 36(1) of the Act. Therefore, it clearly goes to show that first there must be declaration on the pre-packed packages according to the Rules, that is with regard to the manufacturer's name, address, date of manufacture, packed month and year, maximum retail price and

customer care telephone number and with regard to the contents the standard quantity of the commodity and number of the articles inside the package. So, if there is any violation with regard to the weight, standard quality and quantity and the number inside the package as against the declaration made, then only Section 18(1) is attracted, which is punishable under section 36(1) of the Act.

9. In order to understand the above said two provisions, it is just and necessary to make some illustrations:

(i) If only the declaration is made explaining the manufacturer's address, date of manufacture/packed month and year, maximum retail price and customer care telephone number and also declaration with regard to the size and standard quantity, but if it is found that, though the declaration is properly made, but there is difference with regard to size, weight, number and standard

quality, then not only the rule that is violated, but also Section 18(1) is violated.

(ii) Illustration - If a declaration is made without mentioning the details/or if no declaration is made, with reference to the manufacturer's address, date of manufacture/packed month and year, maximum retail price and customer care telephone number, declared size, quantity and quality but on opening the package, if it is found that there is any difference with regard to the standard quantity and number, then not only Rule 6 is violated, but also Section 18(1) is violated which is punishable under Section 36(1) of the Act.

(iii) Illustration - If merely no declaration is made by mentioning the manufacturer's address, date of manufacture/packed month and year, maximum retail price and customer care telephone number and declared size, number and standard, but the quantity, number, size, weight and the quality of

the articles which ought to have been inside the pre-packed packages is found to be perfect and correct, then the mere non-declaration on the prepaid packages of anyone of the above said declarations, then it only attracts Rule 6 of the Rules, but there is no violation of Section 18(1) which calls for punishment under Section 36(1) of the Act.

10. Therefore, it is made clear that for violation of Rule 6 in non-mentioning of the manufacturer's address, date of manufacture/packed month and year, maximum retail price, customer care telephone number and declared size and quantity and number, there should be allegation in the complaint that on the opening of the pre-packaged packages, the Legal Metrology Officer found any difference with regard to the quantity, quality, weight, size and number of the articles inside the package. If no such allegations are available, neither Section 18(1) can be invoked nor Section 36(1) can be pressed into service.

11. Now coming to the above said cases, as I have already narrated the factual aspects of the case, in almost all cases except in CrI.P.No8106/2013, the allegations made against the petitioners are that they have not displayed the declaration on the pre-packed packages, *the manufacturer's address, the date of manufacture/packed month and year and maximum retail price and customer care telephone number and declared size, quality, standard, unit.* There is no allegation whatsoever in the above said cases that there were any differences with regard to the size, weight or the standard, unit, or quality of the articles which were packed inside the packages. Therefore, Section 18(1) cannot be pressed into service nor Section 36(1) would come into play.

12. So far as Criminal Petition No.8106/2013 is concerned, apart from invoking Section 18(1) and 36(1) of the Act, they have also invoked Section 31 of the Act. Section 31 of the Act is with reference to

penalty for non-production of documents etc. The said provision reads thus:

“31. Penalty for non-production of documents, etc.

Whoever, being required by or under this Act or the rules made thereunder to submit returns, maintain any record or register, or being required by the Director or the Controller or any legal metrology officer to produce before him for inspection any weight or measure or any document, register or other record relating thereto, omits or fails without any reasonable excuse, so to do, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.”

13. The above said provision is attracted only when the manufacturer or retailer or seller is being required by the Director or the Controller or any Legal Metrology Officer to produce before him for inspection any *weight or measure or any document,*

register or other record relating thereto, omits or fails without any reasonable excuse, so to do, then the person would be punishable under the above said provision. Therefore, if any record or register or with regard to returns maintained by the manufacturer or the retailer is not produced then section 31 is attracted and also any weight or measure is asked to be produced or any document, register or other record relating to the weight and measure is not produced, then also, Section 31 is attracted.

14. In this particular case, it is stated in the complaint at Paragraph 5(a) that when the compounding notice was issued pertaining to Paragraph 4(a), the retailer did not compound the case. He has also not submitted the *purchase invoice of the said products* which constitute an offence under Section 31 of the Act. When there is no allegation with regard to the standard weight or standard units or quality of the articles inside the packages, the question of production of the

documents with reference to any *weight or measure and any non-production of the documents will not attract Section 31 of the Act*. Therefore, if there is any difference in weight and measure and allegation is made to that effect, in order to ascertain the *weight and measure* or if any document is required to be produced relating to weight and measure and if the same is not produced by the manufacturer or the retailer, then only Section 31 of the Act is attracted. Therefore, in my opinion, in the above said cases, neither Section 18(1) nor Section 36(1) or Section 31 of the Act are attracted.

15. However, as could be seen from the allegations made in the complaints, there were no declarations with reference to the manufacturer's name and address as well as the date of *manufacture/packed month and year, maximum retail price and customer care telephone number and declared size and standard unit*. These declarations were not made on the pre-packed packages.

Therefore, it is only a mere non-making of the declarations on the pre-packages alleged which attracted violation of the Rules invoked by the complainant. Therefore, if any Rules are violated under the Legal Metrology (Packaged Commodities) Rules, 2011, then the violation of the said Rules are punishable under Rule 32 of the said Rules.

16. Therefore, under the above said circumstances, the Trial Court is hereby directed to proceed with the case in order to ascertain in all the above cases, whether any rules are violated and if they are punishable under Rule 32 of the said Rules and thereafter dispose of the cases in accordance with law.

Accordingly, all the petitions are partly allowed.

**Sd/-
JUDGE**