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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of decision: 6th February, 2025*

+ **CRL.M.C. 137/2018, CRL.M.A. 593/2018 (stay)**

M/s AMAR TEA PVT. LTD.

Through AR

Mr. Juzar Saifuddin Bohra

.....Petitioner

Through: Counsel for Petitioner (appearance
not given).

versus

1. THE STATE GOVT OF NCT. OF DELHIRespondent No.1

2. INSPECTOR LEGAL METROLOGY
WEIGHTS & MEASURES DEPARTMENT,
GOVT. OF NCT. OF DELHIRespondent No.2

Through: Mr. Shoaib Haider, APP for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Petition under Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.P.C.'*) has been filed on behalf of the Petitioner/Amar Tea Pvt. Ltd. for quashing of Summoning Order dated 31.07.2010 in C.C. No. 2593-2594/2010 under Section 39 and 63 of the Standards of Weights and Measures Act, 1976 (*hereinafter referred to as 'SWM Act' 1976*) and all proceedings emanating therefrom.

2. It is submitted that the Petitioner is a Private Limited Company registered under Companies Act having its Registered Office at Mumbai, having its business in the field of manufacturing and marketing of Tea and



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allied Products under the trademark “Society Tea”.

3. It is submitted that as per the Respondent No. 2, an inspection was conducted on the premises of M/s Jain Sales Co., 254/6C, Bhola Natha Nagar, Shahdara, Delhi-110032 on 29.03.2010 and a packet of Tea under the brand of *Amar Tea* weighing 250 grams, was seized. It was found that no customer care number was mentioned and the date of packaging was hand written as 3/10, on the packet. It was further alleged that the name of the Company of the Petitioner, M/s Amar Tea Pvt. Ltd., was indicated on the packet as “*Packaged and Marketed by*”.

4. Thereafter, Notice dated 25.05.2010 was served upon M/s Jain Agencies, through its Proprietor, Mr. Naveen Jain with the allegations that the *customer care number* was not indicated and that the *packaging date* was hand written. The proprietor pleaded guilty and the matter was accordingly disposed of.

5. Thereafter, Complaint dated *nil* was served upon “*All Directors, M/s Amar Tea Pvt. Ltd.*” on which the cognizance was taken and summons were issued to the Petitioner, by the learned Metropolitan Magistrate *vide* Order dated 31.07.2020.

6. The Order on Summoning has been challenged on the grounds that there was *no link evidence* whatsoever to show that this packet taken from the premises of Jain Sales Company, was ever supplied by the Petitioner.

7. *Secondly*, the Notice has been issued to *all the Directors of Petitioner’s Company*, however, Section 74 of SWM Act, 1976, provides that where the offence is committed by the Company, every person who at the time of offence, *was in-charge of and was responsible to the Company for the conduct of business as well as the Company*, shall be deemed guilty



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of the offence and be liable to be proceeded against and punished accordingly. It is claimed that unless the name of the Company was disclosed, the Directors cannot be held vicariously liable by virtue of Section 74 of SWM Act, 1976. Therefore, without making the Company as a party and without there being any averment that all the Directors were in-charge and responsible to the conduct of business of the Petitioner's Company, the Summoning Order suffers from patent illegality and is not sustainable under law.

8. Arguments heard and the record perused.

9. The Complaint had been filed under Section 39 and 63 of SWM Act, 1976, essentially on the ground that the date of packaging on the packet was indicated in pen.

10. First and foremost, an inspection was conducted on 29.03.2010 on the premises of M/s Jain Sales Co., Shahdara, Delhi, a Complaint under *Section 33/51 of 85 Act 39/63 of Std/WRM Act, 1976* against M/s Jain Agencies through its proprietor, Mr. Naveen Jain, was filed to which Mr. Naveen Jain pleaded guilty and a fine of Rs.3,000/- was imposed upon him *vide* Order dated 11.06.2010.

11. This is the second Notice in regard to the same Inspection to "*All Directors, M/s Amar Tea Pvt. Ltd.*" was served for offences under Section 33/63 of the SWM Act, 1976.

12. The first ground of challenge to the Complaint is that it is addressed to *All Directors* without impleading the Company as a party. Section 74 of SWM Act, 1976 specifically provides that where an offence is committed by a Company, every person who at the time of the offence was in-charge of and responsible to the Company for the conduct of business, shall be



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deemed guilty of the offence. Significantly, the Company i.e. M/s Amar Tea Pvt. Ltd. has not been named as the offender nor is the name mentioned in the Notice.

13. In the case of Sanjay Dutt & Ors. vs. The State of Haryana & Anr., 2025 INSC 34, it has been observed that while a Company may be held responsible for the wrongful acts of its employees, the liability of its Directors is not automatic. It depends on specific circumstances particularly the interplay between the director's personal actions and the Company's responsibilities. A Director may be vicariously liable only if the Company itself is liable in the first place and if such Director has personally acted in the manner that directly connects their conduct to the Company's liability. Mere authorization of an act at the behest of the Company or the exercise of a supervisory role over certain actions or activities of the Company is not enough to render a Director vicariously liable. There must exist something to show that such actions of the Director stemmed from their personal involvement and arose from actions or conduct falling in the scope of its routine corporate duties. Thus, where a Company is the offender, vicarious liability of the Directors cannot be imputed automatically, in the absence of any statutory provision to this effect. There has to be a specific act attributed to the Director or any other person allegedly in control and management of the Company, to the effect that such a person was responsible for the acts committed by or on behalf of the Company.

14. It was further observed that whenever by a legal fiction the principle of vicarious liability is attracted and a person who is not personally involved in the commission of offence is liable for the same, it has to be specifically provided in the concerned statute. Even where such a provision for fastening



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vicarious liability exists, it does not mean that any or all Directors of the Company would be automatically liable for any contravention of such statute. There has to be specific and substantiated allegations attributing a particular role or conduct to such Director, sufficient enough to attract the provisions constituting vicarious liability. The specific averments are required under the law to be made in the complaint so as to make the accused vicariously liable.

15. In the present Case, the Company is not being made the accused. It is only “*All the Directors*” to whom the Notice has been sent. Such generic Notice without specifying the name of the Company or the specific act attributable to the Company or the Directors, is bad in law and the Complaint itself is liable to be quashed.

16. In this context, it is also pertinent to observe that the only allegation is that the date on the packaging was hand-written with a pen. However, there is no document or evidence to establish that the packet seized from the shop of M/s Jain Sales Co., was in fact supplied or provided by the Petitioner herein. There is nothing to connect the recovery of the package to any act of the Directors. This is more so, as it has been contended on behalf of the Petitioner that this packet was not supplied by them to M/s Jain Sales Co. At least, some preliminary enquiry on this aspect should have been conducted, which is conspicuously missing.

17. To conclude, neither the Company nor its Directors by name, have been issued the Notice. There are no cogent *prima facie* averments to show that the alleged packet was supplied by the Company or it was in any way responsible for mentioning of the date in pen on the packaging.

18. Accordingly, the Petition is allowed and the Summoning Order dated



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31.07.2010, is set aside.

19. The Petition along with pending Applications is disposed of accordingly.

**(NEENA BANSAL KRISHNA)
JUDGE**

FEBRUARY 6, 2025/RS