

RELIEF TO MANUFACTURERS AND DEALERS UNDER STANDARDS OF WEIGHTS AND MEASURES LAW

The Karnataka High Court in a recent important judgment, *Ewac Alloys Ltd. V. Union of India*, 2012 (2) Kar. L.J. 324 has held that Rule 6 of the Standards of Weights and Measures (Packaged Commodities) Rules, 1977 which requires declarations such as name and address of manufacturer and packer, MRP, net quantity, date of manufacture, generic names of commodities etc. to be made on every package is not applicable to goods sold to industrial consumers even though the sale may not be directly made to them by manufacturers.

The matter arose in this fashion.

The Petitioner was engaged in manufacturing commodities such as electrodes, brazing rods, powders and fluxes which are used mainly for repairs and maintenance of costly industrial equipments which were sold through stockists across the country. The officials of the Department of Weights and Measures, seized the welding electrode products from the premises of the Petitioner alleging that the address of the manufacturer or packer and MRP have not been marked on such packages and issued a show cause notice and registered a case for violation of the provisions of the Standards of Weights and Measures Act, 1976 (hereinafter called 'Act') and Rules. The contention of the Petitioners was that the commodities are used only by industrial users and hence, the provisions of the Act and the Rules above do not apply to industrial consumers. It was also contended that even if the stockists were treated as retail dealers there is a specific exemption for products sold to industrial consumers under the Rules. The Respondents on the other hand contended that the exception under the Rules does not apply to the Petitioners and that they are in violation of the provisions of the Act and the Rules. The Act or the Rules do not define the term 'consumer'.

The Court upheld the contention of the Petitioners and concluded that the main object of the Act is the protection of consumers and the term consumer has to be understood as defined in the Consumer Protection Act, 1986 which in turn excludes from its ambit a person who buys goods for resale or any commercial purposes except when such purchase is towards earning his livelihood by means of self employment. Looking into the various provisions of the Rules and the Act, the Court held that the Act is meant only for the protection of an individual consumer or a group of individuals who purchase packaged commodities from a retail dealer and cannot include industrial or institutional consumers or consumers who purchase goods in large quantities such as the ones purchasing from the Petitioners and therefore, Rule 6 is not required to be complied with by a manufacturer who sells his packaged goods to an industrial or institutional consumer even though the sale may be through a stockist.

This judgment will come as a relief to several manufacturers who sell goods consumed by industries not directly but through a network of stockists or dealers. These entities used to be plagued with and harassed frequently by notices issued by the Department of Weights and Measures for not making certain declarations such as MRP, weight, name of the manufacturer etc on their goods, which were unnecessary considering the category of persons who were purchasing such goods and also the manner in which sales used to take place. Usually such consumers would be fully aware of the nature, quantity and specifications of the goods which they would purchase, these purchases mainly being made in bulk and for use in their businesses. Till this judgment the Department was taking the view that only if the sale was directly made by a manufacturer to an industrial consumer could there be any exemption considered from complying with requirements of Rule 6 and this benefit could not be extended to cases where sale is through dealers, distributors or stockists. However the Karnataka High Court has now taken the view that a harmonious reading of all the rules and the legislative intent would indicate that the mere fact that the sale is made through a dealer or stockist would not make any difference and rule 6 would not be applicable if ultimately the goods are consumed by an industrial consumer .

Hopefully with this ruling manufacturers and dealers may get some respite from frequent harassment and interference by the Department officials.



BANGALORE
101, I Floor, "Embassy Classic"
11, Vittal Mallya Road,
Bangalore -560001, India
Tel: +91 80 4072 6600
Fax: +91 80 4072 6666

bangalore@induslaw.com

BHUBANESWAR
212, Paik Nagar
Bhubaneswar – 751003 , India
Tel: + 91 674 256 5656
bhubaneswar@induslaw.com

HYDERABAD
302, Apurupa Classic Apartment
Road No.1 , Banjara Hills
Hyderabad - 500034, India
Tel : +91 40 4026 4624
Fax: +91 40 4004 0979
hyderabad@induslaw.com

NEW DELHI
A-4, Sector 26
Noida -201301
NCR of Delhi , India
Tel: +91 120 472 8100
Fax: +91 120 472 8114
delhi@induslaw.com