भारतीय मानक ब्यूरो
BUREAU OF INDIAN STANDARDS

## ORDER OF COMPOUNDING OF OFFENCE

**Ref: NRO/DDGN/PPBO/Compounding/L-9200104098** **10 March 2022**

**Sub: Application for Compounding of Offence under Rule 50 of BIS Rules, 2018 by M/s Shree Sita Ram Appliances Pvt. Ltd., Sonipat (HR) .**

**Hearing in the subject matter was held on 09 March 2022 :**

**A. Presentation of the Case by BIS :**

**PPBO presented the case as under:**

M/s Shree Sita Ram Appliances Pvt Ltd, Plot No.62 A, Ph-V, Sector-53 HSIIDC Indl Estate Kundli is holding BIS Certification Licence No CM/L- 9200104098 for the Product Domestic Electric Food-Mixers (Liquidizes And Grinders) as per IS 4250:1980 which is valid upto 03.05.2022.

2. Existing scope of the licence is :

i. MG,750W, Liquidizer - 1250 ml, Grinder - 150 ml,Class of appliance - I, Insulation class- H

ii. MG,350W, Liquidizer - 1000 ml, Grinder - 100 ml,Class of appliance -I, Insulation class- H

iii. MG,500W,Liquidizer-1.0 litre, Dry Grinder-100 ml,Class of appliance -II, Insulation Class H

iv.JMG,500W,Liquidizer 1.0-litre, Dry Grinder-100 ml,Class of appliance- II Insulation Class H.

3. As per OSA IR dt 03.01.2022, firm has declared stock variety which includes MG 500W, Class-2, Insulation Class-H, Liquidizer-1.25L, Grinder-100mL. OSA has drawn the same sample for independent testing at CL.

4. As per grouping guidelines mentioned in PM/ IS 4250/ 3/ July 2020, above variety is not covered under the existing scope of the license which amounts to be misuse of BIS standard mark and violation of Section 13(2) of BIS Act 2016, Regulation 6 (4) of BIS(Certification) Regulations;2018. Therefore, the case was processed for cancellation of license as per item L1 of CAD guidelines CAD/Gen/25 dated 01.10.2018. A cancellation notice dt 08.02.2022 was served to the firm with direction of suspension of license as cancellation proceedings are initiated against a licensee taking cognizance of Clause Cl 17 of CMD guidelines CMD-I/2:12:2 (Part 2) dt 28.12.2021 as per Scheme I of Schedule II of BIS (CA) Regulations, 2018". Firm replied to the cancellation notice dt 14.02.2022 and requested for the personal hearing.

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5. Personal Hearing was held on 21.02.2022. Firm admitted their unintentional mistake of supplying MG,500W, Liquidizer-1.25 litre, Dry Grinder-100 mL Class of appliance -II, Insulation Class H marked article which is not permitted as per grouping guidelines and scope of the licence and requested for compounding of offence as per BIS Act, Rules & Regulations.

6. Firm has submitted application for compounding of offence dt 23.02.2022 along with CA certificate with UDIN no. 22550858ADJOIL7507 for sales of MG,500W, Liquidizer-1.25 litre, Dry Grinder-100 ml, Class of appliance -II, Insulation Class H.

7. In continuation to above regarding compounding application made by the aforesaid firm. Now we are in receipt of letter of even number dated 04.03.2022 in which firm has submitted the followings:

a. As they are OEM, the buyer provides them the design of the box. In this case also, the design of the box was developed & provided by the buyer "M/s Kent RO System Noida". In this instant case, they made a mistake by not checking the design & matter got printed on the box provided by the buyer.

b. Out of above order, they produced and supplied 780 pcs of mixer of 500 W Class II vide bill no SSR/120/21-22 dated 12/11/21. The copy of said bill, E-way Bill and LR already submitted.

c. After the supply of the mixer, they realized their mistake and noticed the capacity of the liquidizer of the jar wrongly printed on the box as 1.25 ltrs in place of 1 litrs. Thereafter, they immediately recalled the entire consignment of mixer supplied to buyers.

d. On dated 17/11/2021, M/s Kent RO System Ltd., Noida returned entire consignment vide purchase return challan cum debit note no 15100126 dated 17/11/2021. The copy of purchase return challan cum debit note, e way bill no 481213324646 dated 18/11/2021 and LR no 10187 dated 18-11-21 of Kripal tempo Transport service, Noida already submitted by the firm.

e. Thereafter due to ongoing pandemic and other unavoidable circumstances, they could not settle this issue with Kent and Whole Lot is laid in store till date.

f. They confirmed that they have not produced, marked or sold such mixer of 500 W Class II of liquidizer 1.25 liters in place of 1 liter. The mixer was produced with the valid technical specifications but only wrongly printed 1.25 liter in place of 1 liter on box.

g. They are not mentioning capacity of Jars on the product. Image of market sticker is attached submitted by the firm. They have also submitted the image of marking available on the printed box.

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h. They have also submitted that they do not have any mala-fide intentions to manufacture & supply such mixer which license do not permit. By mistake of their employee, the sample sealed by Audit Person was from the same rejected box mentioning 1.25 liters in place of 1 liter.

i. In the above case, it is submitted that the firm has recalled all the material from OEM vide purchase return challan cum debit note no 15100126 dated 17/11/2021 before BIS visit dated 03.01.2022 and also before issuance of cancellation. They have also submitted that they will destroy the wrongly printed box immediately.

8. The above case has been examined in line with the prevailing BIS Act, Rules & Regulations and following is submitted for kind consideration:

a. This product is under mandatory certification. The offence is violation of Section 17 of BIS Act 2016 and is first offence punishable under BIS Act 2016 committed by the licensee.

b. The quantum of penalty as per 29(3) of BIS Act,2016 shall be punishable with imprisonment for a term which may extend up to two years or with fine which shall not be less than two lakh rupees for the first contravention and not be less than five lakh rupees for the second and subsequent contraventions, but may extend up to ten times the value of goods or articles produced or sold or offered to be sold or affixed or applied with a Standard Mark, including Hallmark, or with both.

c. The quantum of penalty of compounding as per Sub Rule(8) of Rule 50 of BIS Rules, 2018 is " fifty percent of the maximum and subject to a minimum of two lakh rupees of the applicable fine".

d. In the instant case, as per CA's Certificate submitted by the firm, Firm has manufactured 780 Pcs of 500W Mixer Grinder with liquidizer 1.25 liter marking. Firm had supplied 780 pcs of Mixer Grinder to M/s. Kent RO System Ltd. Noida, against Inv. No. – SSR/120/21-22, Dt 12.11.2021 with value of 8,19,000/-+GST. Subsequently all the 780 Pcs of Mixer Grinder were received back from M/s. Kent RO System Ltd. vide Sale return cum Debit Notes – 521FG0041 dt- 16.11.2021. Net sale of 500W mixer grinder with Liquidizer 1.25 litter marking by M/s. Shree Sita Ram Appliances Private Limited. is NIL.

e. They have realized their mistake and not sold any material in the market with the questioned specifications. In fact they are not mentioning capacity of Jars on the product and of marking with the said specification are available on the printed box which could be destroyed by the firm. As the capacity of jar are not being mentioned on the product available in the boxes , the product could be packed in new packing and supplied to the market.

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**B. Presentation by the Licensee:**

**During the hearing, Mr. Anurag Rungta stated that:**

a) During the last personal hearing i.e. on 21 Feb 2022, he was informed in detail the provisions of compounding of offence. Accordingly, they have submitted application for compounding of offence on 23 Feb 2022 alongwith CA's Certificate dated 22 Feb 2022 & 08 March 2022 which clearly shows that they have only produced 780 pieces of MG 500 Watts, Class II, Liquidizer 1.25 ltrs. which was sold to M/s Kent RO Systems Ltd., Noida on 12-11-2021. After realizing their mistake, the whole consignment was called back on 16-11-2021.

b) The packaging/boxes were produced and provided by M/s Kent RO Systems Ltd., Noida.

c) Mr. Anurag Rungta further admitted that they will destroy the printed boxes immediately and also dismantle 778 pieces of appliances of MG 500 Watts, Class II, Liquidizer 1.25 ltrs. and reprocess it for another brand name LIFELONG.

d) The firm further requested to consider their case sympathetically.

**Penalty for Contravention:**

i) The quantum of penalty as per section 29 (3) of BIS Act, 2016 shall be punishable with imprisonment for a term which may extend upto two years or with fine which shall not be less than two lakh rupees for the first contravention and not be less than five lakh rupees for the second and subsequent contraventions, but may extend upto ten times the value of goods of articles produced or sold or offered to be sold or affixed or applied with a Standard Mark or with both.

ii) The quantum of penalty as per Sub rule(8) of Rule 50 of BIS Rules, 2018 is "fifty percent of the maximum and subject to a minimum of two lakh rupees of the applicable fine".

iii) In the instant case, as per CA's Certificate submitted by the firm, Firm has manufactured 780 Pcs of 500W Mixer Grinder with liquidizer 1.25 liter marking. Firm had supplied 780 pcs of Mixer Grinder to M/s. Kent RO System Ltd. Noida, against Inv. No. – SSR/120/21-22, Dt 12.11.2021 with value of 8,19,000/-+GST. Subsequently all the 780 Pcs of Mixer Grinder were received back from M/s. Kent RO System Ltd. vide Sale return cum Debit Notes – 521FG0041 dt- 16.11.2021. Net sale of 500W mixer grinder with Liquidizer 1.25 litter marking by M/s. Shree Sita Ram Appliances Private Limited. Is NIL.

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**Observations :**

I. The entire quantity of 778 nos. was recalled by the licensee on their own accord after realizing that the marking on the packages, viz 1.25 ltr. capacity was not covered in their licence. This action was taken by them prior to the visit of our IO on 03 Jan 2022 vide challan dated 16-11-2021 and other documentary evidence provided by the firm is accepted on record.

II. The value of the product in question is therefore Nil. However, during the visit of our IO one sample of this product was drawn for independent testing and one counter sample was left with the firm. Hence, violation of Section 17 of BIS Act, 2016 has taken place and misuse of ISI Mark is established, even if for negligible value.

III. The firm has accepted their mistake in this regard. The offence is a violation of Section 17 under BIS Act 2016 and is the first offence punishable under BIS Act 2016 committed by the licensee.

**ORDER**

1. In exercise of the powers delegated by Governing Council of BIS and Director General, BIS vide BIS/DGO/415/2018 dated 09 July 2018 and Rule 50 & 51 of the BIS Rules, 2018, the application for compounding of offence under provision of Section 33 of BIS Act, 2016 is allowed.

2. By taking all the facts into consideration, Compounding amount of Rs.2,00,000/- (Rupees Two lacs only) + GST, as applicable, is imposed on M/s Shree Sita Ram Appliances Pvt.Ltd., Sonipat. The firm shall pay the said amount i.e. Rupees Two Lacs only + GST to the Bureau within 30 days from the date of issue of this order failing which licence no. L-9200104098 shall stand cancelled.

3. The offence shall stand compounded subject to the remittance of the compounding amount imposed within 30 days.

4. PPBO is advised to take further action as per the guidelines.

**( Rajeev Sharma )**
**Dy. Director General (North)**