



भारतीय मानक ब्यूरो
BUREAU OF INDIAN STANDARDS

ORDER OF COMPOUNDING OF OFFENCE

Ref: NRO/DDGN/PPBO/Compounding/L-9100106503

01 Feb 2022

Sub: Application for Compounding of Offence under Rule 50 of BIS Rules, 2018
by M/s Vardhman Electrical Appliances, Kundli, Sonipat (HR) .

Hearing in the subject matter was held on 31 January 2022 :

A. Presentation of the Case by BIS :

PPBO presented the case as under:

- a) M/s Vardhman Electrical Appliances, Plot No. 118 Sec. 53 Phase 5 Kundli Sonipat-131028 is holding BIS Certification Licence NoCM/L- 9100106503 for the Product Domestic Electric Food Mixers (Liquidizers & Grinders) and Centrifugal Juicers as per IS 4250:1980 which is valid upto 22.04.2022.
- b) Inclusion was submitted by the firm for MG 450W, 750W class-2 on 16.05.2019 and based on the declaration submitted by the firm for varieties they intend to cover in the scope of licence. MG 450W, 750W class-2 were included under the scope of licence.
- c) During the operation of licence, a market sample coded as PPBO/70319/20210917/MS/1 was drawn on 17.09.2021 was forwarded to NROL for testing with description as Type - Mixer Grinder, Rating - 500 W, Class-1 based on the scope of licence granted to the firm.
- d) TR no. 21E4D7CN_1 dt 29.10.2021 issued from NROL was received which states "the test request was declared class I however sample construction & marking as per class II hence tested accordingly".
- e) From the above, it was prudent that the firm is manufacturing the product as per specification as class II, 500W, Domestic Electric Food Mixer (Liquidizers Grinders), however firm is holding BIS licence for Class 1, 500W on Domestic Electric Food Mixer (Liquidizers Grinders) 500W with similar other technical specifications. Since, the firm is found to be marking on a variety which is not covered in 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 case was processed for cancellation of license as per item L1 of CAD guidelines CAD/Gen/25 dated 01.10.2018. Cancellation notice was issued to the firm on 14.12.2021 with direction of suspension of licence. Firm has replied to the cancellation notice dt 03.01.2021 and requested for the personal hearing.

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- f) Personal hearing as held dated 13.01.2022 through VC. As per clarification submitted by the firm, standard mark on MG 500W, Class-2 was used unintentionally. Firm accepted their mistake of marking on 500W, class-2 appliance which is violation of certification rules. Firm has also submitted application for compounding of offence with requisite documents vide letter dated 18.01.2022.
- g) 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. 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".
- h) In the instant case, as per CA's Certificate submitted by the firm, the cost of product sold is Rs 925*113 that is Rs. 1,04,525 which implies a maximum fine, as per Section 29(3) of BIS Act, upto Rs. 10,45,250. The compounding amount as fifty percent of the maximum, works out to be Rs. 5,22,625 as per Rule 50(8) of BIS Rules, 2018. As per test record, quantity of MG 500W, Class-2 is 114.

B. Presentation by the Licensee:

During the hearing, Mr.Piyush Jain stated that:

- a) They are operating BIS certification licence for approx 3 Years. Licence was granted for JMG 450W, class-1; MG 450W,500W,550W,650W,750W class-1 dt 01.05.2019.
- b) Inclusion was submitted by the firm with test report of MG 450W,750W class-2 to cover range of rated input power from 450W to 750W class-2. However, inclusion for MG 450W,750W class-2 was accepted only by BIS as the firm did not declare other varieties intended to cover for inclusion of new varieties as per product manual.
- b) According to above guidelines, Standard mark was used on 500 W Class II as it was within the range of 450W to 750 W.
- c) He further pleaded that this was done unintentionally as they were of the view that they can manufacture 500W as per the grouping guidelines and they have started manufacturing from June 2021.
- d) He informed that the production details given in CA certificate is correct as one number was consumed in testing.

- e) He apologized for their unintentional mistake and assured to comply all the BIS Rules & Regulations. He assured that such mistake will not be repeated in future and requested to consider their case sympathetically as this is their first mistake.

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 accordance with CA certified statement provided by the firm, the cost of product sold is Rs.925*113 i.e. Rs.1,04,525/- which implies a maximum fine, as per Section 29(3) of BIS Act, upto Rs.10,45,250/- the Compounding amount as fifty percent of the maximum works out to be Rs.5,22,625/- and subject to a minimum of two lakh rupees of the applicable fine as per rule 50(8) of BIS Rules, 2018.

Observations :

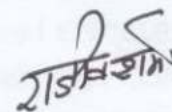
The offence is a violation of Section 17 under BIS Act 2016 and is the first offence punishable under BIS Act 2016 committed by the licensee.

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.

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2. Based on the statement provided by the firm, the value of goods produced/sold with Standard Mark in contravention of Section 17 of the BIS Act, 2016 is Rs.1,04,525/-. The quantum of penalty in accordance with Sub rule (8) of Rule 50 of BIS Rules, 2018 is Rs.5,22,625/- (Rupees Five Lakhs Twenty Two thousand Six Hundred and Twenty five Only). The firm shall pay the said amount i.e. Rs.5,22,625/- (Rupees Five Lakhs Twenty Two thousand Six Hundred and Twenty five Only) to the Bureau within 30 days from the date of issue of this order failing which licence no. L-9100106503 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)